Michigan Constitutional Convention of 1961
Committee Proposal 71b
Const 1963, Art 5, § 2

Relevant Material From the Constitutional Convention Record

Cross-Reference and Indices . . . . . pp. 3436, 3448, 3463

First Reading . . . . . pp. 756, 1766-1771, 1822-1865, 1867-1889, 1892-1894, 2008-2013, 2075-2076, 2179-2180, 2204-2205, 2211-2212, 2620

Second Reading . . . . . pp. 2737, 2743-2744, 2753-2755

Draft Constitution (Art 5, § 2) . . . . . pp. 3047-3075 (p. 3057)

Third Reading, Article-by-Article . . . . . pp. 3117, 3121-3125

Draft Constitution (Art 5, § 2) . . . . . pp. 3215-3237 (pp. 3222-3223)

Third Reading, Full Constitution . . . . . pp. 3292, 3300-3301

Adopted Constitution (Art 5, § 2) . . . . . pp. 3319-3353 (pp. 3330-3331)

Address to the People . . . . . pp. 3378-3379

Overview of the Constitutional Convention Process

Provisions generally began as Committee Proposals and were then brought to the convention floor for first reading. The majority of debate on the substance of provisions occurred during the first and second readings. There were two third readings; the first on an article-by-article basis and the second reviewing the Constitution as a whole. Following the third readings the entire Constitution was voted on by the delegates. The delegates then created the Notice of Address to the People, summarizing the Constitution on a provision-by-provision basis, which was distributed so that the people could be informed when making their ratification votes.

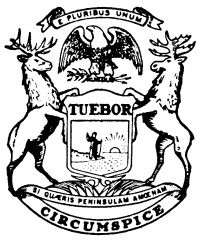
The convention used ALL CAPS to denote added material and [brackets] to denote removed material.

State of Michigan

CONSTITUTIONAL CONVENTION

1961

OFFICIAL RECORD



FRED I. CHASE
Secretary of the Convention

AUSTIN C. KNAPP
Editor

LYNN M. NETHAWAY
Associate Editor

TABLE III—ARTICLES AND SECTIONS OF 1963 CONSTITUTION TO 1908 CONSTITUTION WITH COMMITTEE PROPOSAL REFERENCE

The Committee Proposal number and section are as re-referred to the committee on style and drafting.

* Created by the committee on style and drafting.

1963		1908		Committee Proposal
Preamble		Preamble		14
Art.	Sec.	Art.	Sec.	
I	1	II	1	15-1
I	2	none		26
I	3	II	2	15-2
I	4	II	3	15-3
I	5	II	4	15-4
I	6	II	5	15-5
I	7	II	6	15-6
I	8	II	7	15-7
I	9	II	8	15-8
I	10	II	9	15-9
I	11	II	10	15-10
I	12	II	11	15-11
I	13	II	12	15-12
I	14	II	13	15-13
I	15	II	14	15-14
I	16	II	15	15-15
I	17	II	16	15-16
I	18	II	17	15-17
I	19	II	18	15-18
I	20	II	19	15-19
I	21	II	20	15-20
I	22	II	21	15-21
I	23	none		15-1
II	1	III	1,2,3	58a
II	2	none		58b
II	3	none		58c
II	4	III	1,8	58d
II	5	V	12	58e
		VI	1	
		VII	2,9,14	
		VIII	3,18	
		XI	2,3,6, 7, 16	
II	6	III	4	58f
II	7	III	9	58h
II	8	III	8	58g
II	9(¶2*)	V	1	118b
III	1	I	2	10
III	2	IV	1,2	21
III	3	VI	11,12	18
III	4	XV	1,2,3	19
III	5	none		128
III	6	X	14	101
III	7	S	1	44a
III	8	none		96k
IV	1	V	1	118a
IV	2	V	2	80a
IV	3	V	3	80b
IV	4	none		80c
IV	5*	none		...
IV	6	V	4	79
IV	7	V	5	32
IV	8	V	6	112
IV	9	V	7	120
IV	10	V	7	115
		V	25	
IV	11	V	8	33
IV	12	V	9,10	28
IV	13	V	13	116
IV	14	V	14	34
IV	15	none		102c
IV	16	V	15	102a
IV	17	none		102b
IV	18	V	16	114
IV	19	V	17	117
IV	20	V	18	103
IV	21	V	18	103
IV	22	V	19	35
IV	23	V	20	29
IV	24	V	21	121
		V	22	105
IV	25	V	21	121
IV	26	V	22	105
		V	23	104
IV	27	V	21	121
IV	28	V	22	105
IV	29	V	30	119
IV	30	V	24	41
IV	31	none		46b
IV	32	X	6	53
IV	33	V	36	70
IV	34	V	38	113
IV	35	V	39	24
IV	36	V	40	108
IV	37	none		123
IV	38	XVI	5	122
IV	39	XVI	5	122
IV	40	XVI	11	27
IV	41	V	33	100
IV	42	VIII	30	87
IV	43	XII	9	5
IV	44	V	27	99
IV	45	V	28	106
IV	46	none		20
IV	47	V	26	111
IV	48	XVI	7	109
IV	49	V	29	110
IV	50	none		127
IV	51	none		126
IV	52	none		125
IV	53	VI	1	78
V	1	VI	2	2
V	2	none		71b
V	3	none		71b
V	4	none		71b
V	5	none		71b
V	6	none		71g
V	7	VI	10	71e
V	8	VI	3	71d
V	9	VI	1	71c
V	10	IX	7	71g
V	11	IX	5	71f
V	12	VI	4	3
V	13	VI	6	7
V	14	VI	9	16
V	15	VI	7	8
V	16	VI	8	9
V	17	VI	5	4
V	18	none		46a
V	19	V	37	46c
V	20	none		46d
V	21(¶3*)	VI	1	71a
V	22	VI	13	17
V	23	VI	21	75
V	24	none		77
V	25	VI	19	71b
V	26	VI	16,17	59,60
V	27	VI	18	72
V	28	none		71h
V	29	none		71i-71A
VI	1	VII	1	90
VI	2	VII	2,23	91a
VI	3	VII	2	91b
VI	4	VII	4	91c
VI	5	VII	5	91d
VI	6	VII	7	91e
VI	7	VII	6	91f
VI	8	none		92a
VI	9	none		92b
VI	10	none		92c
VI	11	VII	8	93a
VI	12	VII	9,23	93b
VI	13	VII	10	93c
VI	14	VII	11	93d
VI	15	VII	13	94a
VI	16	VII	14,23	94b
VI	17	none		96a[1]
VI	18	VII	12	96g
VI	19	VII	17	96a
VI	20	VII	19	96b
VI	21	VII	9	96c
VI	22	none		96l
VI	23	VII	20	96d
VI	24	VII	23	96e
VI	25	IX	6	96h
VI	26	VII	15,16, 21	96i
VI	27	VII	6,11	96n
VI	28	none		95
VI	29	VII	18	96o
VII	1	VIII	1	81a
VII	2	none		89
VII	3	VIII	2	81b
VII	4	VIII	3	81c
VII	5	VIII	4	81d
VII	6	VIII	5	81e
VII	7	VIII	7	81f
VII	8	VIII	8	81g
VII	9	VIII	9	81h
VII	10	VIII	13	81j
VII	11	VIII	12	81i
VII	12	VIII	14	81k
VII	13	none		81n
VII	14	VIII	15	81l
VII	15	none		85c
VII	16	VIII	26	86a
VII	17	VIII	16	82a
VII	18	VIII	17,18	82b,c
VII	19	VIII	19	82e
VII	20	none		82d
VII	21	VIII	20	83a
VII	22	VIII	21	83b
VII	23	VIII	22	83c
VII	24	VIII	23	83e
VII	25	VIII	25	83f
VII	26	VIII	25	83d
VII	27	VIII	31	88a
VII	28	VIII	31	88b
VII	29	VIII	28	85a
VII	30	VIII	29	85b
VII	31	VIII	27	86b
VII	32	none		57
VII	33	IX	8	42e
VII	34	none		84
VIII	1	XI	1	1
VIII	2	XI	9	30
VIII	3	XI	2,6	47
VIII	4	XI	10	98a
VIII	5	XI	3,4,5, 7,8,16	98b
VIII	6	none		98c
VIII	7	none		98d
VIII	8	XI	15	13
VIII	9	XI	14	31
IX	1	X	2	50
IX	2	X	9	54
IX	3	X	3,4,7,8	51
IX	4	none		51
IX	5	X	3,5	52
IX	6	X	21	56

Committee Proposal No. **Page**

65: Cont'd.
Feb. 1, reported by miscellaneous provisions and schedule; referred to committee of the whole 738
Apr. 16, read first time; considered, passed by committee of the whole 2458-2472
Apr. 16, reported by committee of the whole without amendment; referred to style and drafting .. 2472
Apr. 26, reported by style and drafting (Report 113); placed on order of second reading 2852
May 1, read second time; passed; rereferred to style and drafting 3004-3006

66. A proposal relative to amendment and revision. Amends section 4 of article XVII.
For text as offered and reasons 2472
As referred to style and drafting 2472
As reported by style and drafting 3006
As rereferred to style and drafting 3013
Feb. 1, reported by miscellaneous provisions and schedule; referred to committee of the whole 738
Apr. 16, read first time; considered, passed by committee of the whole 2472-2490
Apr. 16, reported by committee of the whole without amendment; referred to style and drafting 2503
Apr. 20, reported by style and drafting (Report 114); placed on order of second reading 2852
May 1, read second time; amended, passed; rereferred to style and drafting 3006-3013

67. A proposal to amend article XIII, sections 1, 2, 3, 4 and 5, pertaining to eminent domain, of the present constitution.
For text as offered and reasons 2580
As referred to style and drafting 2848
As reported by style and drafting 3035
As rereferred to style and drafting 3035
Feb. 2, reported by miscellaneous provisions and schedule; referred to committee of the whole 756
Apr. 18, read first time; considered, amended by committee of the whole 2580-2597, 2598-2602
Apr. 25, considered, amended, passed by committee of the whole 2829-2848
Apr. 25, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting 2848
Apr. 26, reported by style and drafting (Report 121); placed on order of second reading 2870
Apr. 30, consideration postponed 2997
May 1, read second time; passed; rereferred to style and drafting 3035-3042

68. A proposal pertaining to the schedule. Amends sections 10, 6 and 11 of the schedule.
For text as offered and reasons 2490
As referred to style and drafting 2490
As reported by style and drafting 3031
As rereferred to style and drafting 3035
Feb. 1, reported by miscellaneous provisions and schedule; referred to committee of the whole 738
Apr. 16, read first time; considered, passed by committee of the whole 2490-2492
Apr. 16, reported by committee of the whole without amendment; referred to style and drafting 2503
Apr. 26, reported by style and drafting (Report 115); placed on order of second reading 2852
May 1, read second time; amended, passed; rereferred to style and drafting 3031-3035

69. A proposal pertaining to the boundaries of the state of Michigan. Substitute for article I, section 1.
For text as offered and reasons 2427
For minority report and reasons 2428
As referred to style and drafting 2448
Feb. 1, reported by miscellaneous provisions and schedule; referred to committee of the whole 738
Apr. 13, read first time; considered, amended, passed by committee of the whole 2427-2437
Apr. 13, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting 2448
(Note: The entire content stricken.)

Committee Proposal No. **Page**

70. A proposal to revise provisions of section 36 of article V regarding the veto power of the governor.
For text as offered and reasons 1717
For minority report and reasons 1718
As referred to style and drafting 1717
As reported by style and drafting 2769
As rereferred to style and drafting 2769
Feb. 1, reported by legislative powers and executive branch; referred to committee of the whole 738
Mar. 19, read first time; considered, passed by committee of the whole 1717-1720
Mar. 19, reported by committee of the whole without amendment; referred to style and drafting 1730
Apr. 19, reported by style and drafting (Report 73); placed on order of second reading 2619
Apr. 24, read second time; passed; rereferred to style and drafting 2769-2770

71. A proposal to provide for the election, term and duties of state officers; allocation of departments, administrative reorganization, appointment and removal of department heads, supervision of departments, appointments to fill vacancies, provisional appointments, and removal or suspension from office by the governor. Amends or replaces article VI, sections 1, 3, 10 and 19, and article IX, sections 5 and 7.
For text as offered and reasons 1766
For minority reports and reasons 1769
As referred to style and drafting 2211
As reported by style and drafting 2743
As rereferred to style and drafting 2743
Feb. 2, reported by executive branch; referred to committee of the whole 756
Mar. 20, read first time; section a considered by committee of the whole 1766-1784
Mar. 21, section a considered, amended by committee of the whole 1787-1814
Mar. 22, sections a, b considered; section a amended, passed by committee of the whole 1816-1844
Mar. 23, section b considered, amended by committee of the whole 1845-1865
Mar. 26, section b considered, amended by committee of the whole 1867-1874, 1875-1889
Mar. 27, sections b, c, d, e, f, g considered; section h offered, adopted; sections b, d, f, g amended, passed; sections c, e passed by committee of the whole 1892-1920
Mar. 28, section i offered, amended by committee of the whole 1921-1950
Mar. 29, consideration postponed by committee of of the whole 1954
Mar. 29, section i considered, amended, adopted, amended, passed; committee proposal as amended considered by committee of the whole 1976-1986, 1988-2006
Mar. 30, considered, passed by committee of the whole 2008
Mar. 30, reported by committee of the whole with 11 amendments; consideration of report postponed to Apr. 3 2009-2013
Apr. 3, report of committee of the whole postponed 2075-2076
Apr. 5, report of committee of the whole considered; amendments 1 through 10 concurred in; amendment 11 (section i) considered 2179-2190
Apr. 6, amendment 11 (section i) considered, substituted, concurred in; amended; referred to style and drafting 2192-2212
Apr. 19, reported by style and drafting (Report 72); placed on order of second reading 2620
Apr. 24, consideration postponed 2737
Apr. 24, read second time; rules suspended, section i made Committee Proposal 71A (see history immediately below); passed; rereferred to style and drafting 2743-2755

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Article IV, Section 43: Cont'd.
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3329
For text, and comments in address to the people .. 3376

Section 44. Trial by jury in civil cases. (Committee Proposal 99)
May 7, reported; placed on order of third reading .. 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3329
For text, and comments in address to the people .. 3376

Section 45. Indeterminate sentences. (Committee Proposal 106)
May 7, reported; placed on order of third reading .. 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3329
For text, and comments in address to the people .. 3376

Section 46. Death penalty. (Committee Proposal 20)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people.... 3377

Section 47. Chaplains in state institutions. (Committee Proposal 111)
May 7, reported; placed on order of third reading .. 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people .. 3377

Section 48. Disputes concerning public employees. (Committee Proposal 109)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people .. 3377

Section 49. Hours and conditions of employment. (Committee Proposal 110)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people ... 3377

Section 50. Atomic and new forms of energy. (Committee Proposal 127)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people.. 3377

Section 51. Public health and general welfare. (Committee Proposal 126)
May 7, reported; placed on order of third reading .. 3045
May 7, read third time; passed 3099-3116

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Article IV, Section 51: Cont'd.
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people .. 3377

Section 52. Natural resources; conservation, pollution, impairment, destruction. (Committee Proposal 125)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people.... 3377

Section 53. Auditor general; appointment, qualifications, term, removal, post audits. Independent investigations; reports. Governing boards of institutions of higher education. Staff members, civil service. (Committee Proposal 78)
May 7, reported; placed on order of third reading 3045
May 7, read third time; passed 3099-3116
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people 3377

ARTICLE V. Executive Branch. (Committee Proposals 2, 3, 4, 7, 8, 9, 16, 17, 46a, c, d, 59, 60, 71a, b, c, d, e, f, g, h, i-71A, 72, 75, 77)
May 7, reported; placed on order of third reading 3045
May 8, read third time; sections 10 (originally section 9) and 29 (originally section 28) amended; passed 3117-3125
May 9, motion to reconsider vote on passage postponed until May 11 3206-3208
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading 3213
May 11, motion to reconsider vote on passage defeated 3214
May 11, considered read third time; passed 3214-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330-3334
For text, and comments in address to the people.3378-3384

Section 1. Executive power. (Committee Proposal 2)
May 7, reported; placed on order of third reading 3045
May 8, read third time; passed 3117-3125
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people 3378

Section 2. Principal departments. Organization of executive branch; assignment of functions; submission to legislature. (Committee Proposal 71b)
May 7, reported; placed on order of third reading 3045
May 8, read third time; passed 3117-3125
May 9, referred to committee on style and drafting 3210
May 11, reported; placed on order of third reading; considered read third time; passed 3213-3275
Aug. 1, considered; adopted 3291-3301
For text as adopted 3330
For text, and comments in address to the people 3378

Section 3. Single heads of departments; appointment, term. Boards heading departments; appointment, term, removal. Boards and commissions, maximum term. (Committee Proposal 71b)
May 7, reported; placed on order of third reading 3045
May 8, read third time; passed 3117-3125
May 9, referred to committee on style and drafting 3210

Dehnke	Krolikowski	Sablich
DeVries	Kuhn	Sleder
Donnelly, Miss	Leibrand	Snyder
Doty, Donald	Lesinski	Stopczynski
Douglas	Liberato	Suzore
Downs	Lundgren	Walker
Elliott, Mrs. Daisy	Madar	Wilkowski
Faxon	Mahinske	Wood
Follo	Marshall	Young
Ford	McAllister	Youngblood

Nays — 71

Allen	Gust	Richards, L. W.
Andrus, Miss	Hannah, J. A.	Romney
Anspach	Haskill	Rood
Batchelor	Hatch	Rush
Beaman	Hubbs	Seyferth
Bentley	Hutchinson	Shackleton
Boothby	Iverson	Shaffer
Brake	Judd, Mrs.	Shanahan
Conklin, Mrs.	Karn	Sharpe
Cudlip	Kirk, S.	Spitler
Cushman, Mrs.	Knirk, B.	Stafseth
Danhof	Koeze, Mrs.	Staiger
Davis	Leppien	Sterrett
Dell	Martin	Stevens
Durst	McCauley	Tubbs
Elliott, A. G.	McGowan, Miss	Turner
Erickson	McLogan	Tweedie
Everett	Millard	Upton
Farnsworth	Nisbet	Van Dusen
Figy	Page	Wanger
Finch	Pollock	White
Gadola	Powell	Woolfenden
Goebel	Prettie	Yeager
Gover	Richards, J. B.	

On the motion to reconsider, the yeas are 60; the nays are 71.

PRESIDENT NISBET: The motion does not prevail.

Reports of standing committees.

SECRETARY CHASE: The secretary would like to suggest that, without objection, all of the remaining committee reports will have been processed this afternoon, and if it is agreeable with the convention, could be included in the journal of today, so that they will be on the general orders calendar for Monday.

PRESIDENT NISBET: Without objection, they will be so included in the journal, considered read, referred to the committee of the whole and placed on general orders.

Following are the remaining committee proposals and exclusion reports introduced January 31, 1962, which were considered read, referred to the committee of the whole and placed on general orders:

Mr. Erickson, for the committee on miscellaneous provisions and schedule, introduced
Committee Proposal 67, A proposal to amend article XIII, sections 1, 2, 3, 4 and 5, pertaining to eminent domain, of the present constitution;
with the recommendation that it pass.

Claud R. Erickson, chairman.

For Committee Proposal 67 and the reasons submitted in support thereof, see below under date of April 18.

Mr. Martin, for the committee on executive branch, introduced
Committee Proposal 71, A proposal to provide for the election, term and duties of state officers; allocation of departments, administrative reorganization, appointment and removal of department heads, supervision of departments, appointments to fill vacancies, provisional appointments, and removal or suspension from office by the governor. Amends or replaces article VI, sections 1, 3, 10 and 19, and article IX, sections 5 and 7; with the recommendation that it pass.

John B. Martin, chairman.

For Committee Proposal 71 and the reasons submitted in support thereof, see below under date of March 20.

[**Committee Proposal 73** withdrawn by committee.]

Mr. Martin, for the committee on executive branch, introduced
Committee Proposal 77, A proposal to provide a suitable residence for the governor and to authorize an allowance for maintenance. Amends article VI;
with the recommendation that it pass.

John B. Martin, chairman.

For Committee Proposal 77 and the reasons submitted in support thereof, see below under date of March 19.

Mr. John Hannah, for the committee on legislative organization, introduced
Committee Proposal 79, A proposal pertaining to a commission on legislative apportionment. Replaces article V, section 4; with the recommendation that it pass.

John A. Hannah, chairman.

For Committee Proposal 79 and the reasons submitted in support thereof, see below under date of March 30.

Mr. John Hannah, for the committee on legislative organization, introduced
Committee Proposal 80, A proposal pertaining to the reapportionment of the legislature: (a) the senate; (b) the house of representatives; (c) districting of territories annexed to cities and municipalities. Replaces article V, sections 2 and 3;
with the recommendation that it pass.

John A. Hannah, chairman.

For Committee Proposal 80 and the reasons submitted in support thereof, see below under date of April 2.

Mr. A. G. Elliott, for the committee on local government, introduced
Committee Proposal 86, A proposal pertaining to highways and their maintenance. Amends article VIII, sections 26 and 27; with the recommendation that it pass.

Arthur G. Elliott, chairman.

For Committee Proposal 86 and the reasons submitted in support thereof, see below under date of February 14.

Mr. A. G. Elliott, for the committee on local government, introduced
Committee Proposal 87, A proposal relating to ports and port districts. Retains section 30 of article VIII unchanged;
with the recommendation that it pass.

Arthur G. Elliott, chairman.

For Committee Proposal 87 and the reasons submitted in support thereof, see below under date of February 14.

Mr. A. G. Elliott, for the committee on local government, introduced
Committee Proposal 88, A proposal pertaining to metropolitan areas. Amends article VIII;
with the recommendation that it pass.

Arthur G. Elliott, chairman.

For Committee Proposal 88 and the reasons submitted in support thereof, see below under date of February 14.

Mr. A. G. Elliott, for the committee on local government, introduced
Committee Proposal 89, A proposal pertaining to county home rule. Amends article VIII;
with the recommendation that it pass.

Arthur G. Elliott, chairman.

For Committee Proposal 89 and the reasons submitted in support thereof, see below under date of February 15.

has been ordered. Those who are in favor of reconsideration will vote aye. Those who are opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the motion to reconsider, the yeas are 50; the nays are 59.

CHAIRMAN MILLARD: The motion does not prevail. Are there any further amendments to section a?

SECRETARY CHASE: That is all of the amendments on the desk, Mr. Chairman.

CHAIRMAN MILLARD: Is there any further amendment to the body of Committee Proposal 76? If not, it will pass.

Committee Proposal 76, as amended, is passed. The secretary will read.

SECRETARY CHASE: Item 11 on the calendar, from the committee on executive branch, by Mr. Martin, chairman, **Committee Proposal 71,** A proposal to provide for the election, term and duties of state officers, allocation of departments, administrative reorganization, appointment and removal of department heads, supervision of departments, appointments to fill vacancies, provisional appointments, and removal or suspension from office by the governor. Contains new language and amends or replaces article VI, sections 1, 3, 10 and 19, and article IX, sections 5 and 7.

Following is Committee Proposal 71 as read by the secretary, and the reasons submitted in support thereof:

The committee recommends that the following be included in the constitution:

Sec. a. [There shall be elected at each general biennial election a governor, a lieutenant governor, a secretary of state, a state treasurer, a commissioner of the state land office, an auditor general and an attorney general, for the term of 2 years.]

THE GOVERNOR AND THE LIEUTENANT GOVERNOR SHALL BE ELECTED AT THE GENERAL BIENNIAL ELECTION IN 1964 AND IN EACH ALTERNATE EVEN NUMBERED YEAR BEGINNING IN 1966. THEY SHALL, AFTER 1966, SERVE FOR TERMS OF 4 YEARS BEGINNING ON THE FIRST DAY OF JANUARY NEXT SUCCEEDING THEIR ELECTION.

THE LIEUTENANT GOVERNOR SHALL BE NOMINATED BY PARTY CONVENTION IN A MANNER PROVIDED BY LAW. IN THE GENERAL ELECTION THE VOTES CAST FOR A CANDIDATE FOR GOVERNOR SHALL BE CONSIDERED AS CAST ALSO FOR THE CANDIDATE FOR LIEUTENANT GOVERNOR RUNNING JOINTLY WITH HIM. THE CANDIDATE WHOSE NAME APPEARS ON THE BALLOT JOINTLY WITH THAT OF THE SUCCESSFUL CANDIDATE FOR GOVERNOR SHALL BE ELECTED LIEUTENANT GOVERNOR.

Sec. b. The lieutenant governor shall be president of the senate, but shall have no vote EXCEPT IN CASE OF EQUAL DIVISION. HE SHALL PERFORM SUCH ADDITIONAL DUTIES AS MAY BE DELEGATED TO HIM BY THE GOVERNOR.

ALL EXECUTIVE AND ADMINISTRATIVE OFFICES, AGENCIES AND INSTRUMENTALITIES OF THE STATE GOVERNMENT AND THEIR RESPECTIVE FUNCTIONS, POWERS AND DUTIES, EXCEPT FOR THE OFFICES OF GOVERNOR AND LIEUTENANT GOVERNOR AND THE GOVERNING BODIES OF INSTITUTIONS OF HIGHER EDUCATION PROVIDED FOR IN THIS CONSTITUTION, SHALL BE ALLOCATED BY LAW AMONG AND WITHIN NOT MORE THAN 20 PRINCIPAL DEPARTMENTS, SO AS TO GROUP THEM AS FAR AS PRACTICABLE ACCORDING TO MAJOR PURPOSES. TEMPORARY COMMISSIONS OR AGENCIES FOR SPECIAL PURPOSES AND WITH A LIFE OF NO MORE THAN 2 YEARS MAY BE ESTABLISHED BY LAW AND NEED NOT BE ALLOCATED WITHIN A PRINCIPAL DEPARTMENT.

THE ALLOCATION OF DEPARTMENTS BY LAW PURSUANT TO THIS SECTION SHALL BE COMPLETED WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THIS CONSTITUTION. IF SUCH ALLOCATION SHALL NOT HAVE BEEN COMPLETED WITHIN SUCH PERIOD, THE GOVERNOR, WITHIN ONE YEAR THEREAFTER, BY EXECUTIVE ORDER, SHALL MAKE SUCH ALLOCATION.

SUBSEQUENT TO SUCH ALLOCATION, THE GOVERNOR MAY MAKE CHANGES IN THE ORGANIZATION OF THE EXECUTIVE BRANCH OR IN THE ASSIGNMENT OF FUNCTIONS AMONG ITS UNITS WHICH HE CONSIDERS NECESSARY FOR EFFICIENT ADMINISTRATION. WHERE THESE CHANGES REQUIRE THE FORCE OF LAW, THEY SHALL BE SET FORTH IN EXECUTIVE ORDERS. THE LEGISLATURE SHALL HAVE 60 DAYS OF A REGULAR SESSION, OR A FULL SESSION IF OF SHORTER DURATION, TO DISAPPROVE THESE EXECUTIVE ORDERS. UNLESS DISAPPROVED IN BOTH HOUSES BY A RESOLUTION CONCURRED IN BY A MAJORITY OF THE MEMBERS ELECT OF EACH HOUSE, THESE ORDERS SHALL BECOME EFFECTIVE AT A DATE THEREAFTER TO BE DESIGNATED BY THE GOVERNOR.

THE HEAD OF EACH PRINCIPAL DEPARTMENT SHALL BE A SINGLE EXECUTIVE UNLESS OTHERWISE PROVIDED IN THIS CONSTITUTION OR BY LAW. THE SINGLE EXECUTIVES HEADING PRINCIPAL DEPARTMENTS SHALL INCLUDE A SECRETARY OF STATE, A STATE TREASURER, AND AN ATTORNEY GENERAL. AT THE CONCLUSION OF THE TERM OF OFFICE OF ALL STATE OFFICERS ELECTED UNDER THE CONSTITUTION OF 1908, AS AMENDED, WHEN A SINGLE EXECUTIVE IS THE HEAD OF A PRINCIPAL DEPARTMENT, HE SHALL BE NOMINATED AND, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, APPOINTED BY THE GOVERNOR AND HE SHALL SERVE AT THE PLEASURE OF THE GOVERNOR.

WHEN A BOARD OR COMMISSION IS AT THE HEAD OF A PRINCIPAL DEPARTMENT, THE MEMBERS THEREOF SHALL BE NOMINATED AND, BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, APPOINTED BY THE GOVERNOR. THE TERM OF OFFICE AND REMOVAL OF SUCH MEMBERS SHALL BE AS PRESCRIBED IN THIS CONSTITUTION OR BY LAW. WHEN A CHIEF EXECUTIVE OFFICER OF A BOARD OR COMMISSION HEADING A PRINCIPAL DEPARTMENT IS APPOINTED BY SUCH BOARD OR COMMISSION AS PRESCRIBED BY LAW, HIS APPOINTMENT SHALL BE SUBJECT TO THE APPROVAL OF THE GOVERNOR EXCEPT AS OTHERWISE PROVIDED IN THIS CONSTITUTION.

Sec. c. [They shall keep their offices at the seat of government, superintend them in person and perform such duties as may be prescribed by law. The office of commissioner of the state land office may be abolished by law.] SINGLE EXECUTIVES HEADING PRINCIPAL DEPARTMENTS AND THE CHIEF EXECUTIVE OFFICERS OF PRINCIPAL DEPARTMENTS HEADED BY BOARDS OR COMMISSIONS SHALL KEEP THEIR OFFICES AT THE SEAT OF GOVERNMENT, EXCEPT AS OTHERWISE PROVIDED BY LAW, SUPERINTEND THEM IN PERSON AND PERFORM SUCH DUTIES AS MAY BE PRESCRIBED BY LAW.

Sec. d. EACH PRINCIPAL DEPARTMENT SHALL BE UNDER THE SUPERVISION OF THE GOVERNOR. The governor shall take care that the laws be faithfully executed; shall transact all necessary business with the officers of government; and may require information in writing from all executive and administrative state officers,

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

elective and appointive, upon any subject relating to the duties of their respective offices.

THE GOVERNOR MAY, BY APPROPRIATE COURT ACTION OR PROCEEDING BROUGHT IN THE NAME OF THE STATE, ENFORCE COMPLIANCE WITH ANY CONSTITUTIONAL OR LEGISLATIVE MANDATE, OR RESTRAIN VIOLATIONS OF ANY CONSTITUTIONAL OR LEGISLATIVE POWER, DUTY, OR RIGHT BY ANY OFFICER, DEPARTMENT, OR AGENCY OF THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS. THIS AUTHORITY SHALL NOT BE CONSTRUED TO AUTHORIZE ANY ACTION OR PROCEEDING AGAINST THE LEGISLATURE.

Sec. e. [Whenever a vacancy shall occur in any of the state offices, the governor shall fill the same by appointment, by and with the advice and consent of the senate, if in session.]

WHEN THE SENATE IS NOT IN SESSION AND A VACANCY OCCURS IN ANY OFFICE, APPOINTMENT TO WHICH REQUIRES ADVICE AND CONSENT OF THE SENATE, THE GOVERNOR SHALL FILL THE SAME BY APPOINTMENT. SUCH AN INTERIM APPOINTMENT MAY BE DISAPPROVED BY THE SENATE AS WITH OTHER APPOINTMENTS REQUIRING SUCH ADVICE AND CONSENT. A PERSON SO APPOINTED SHALL NOT BE ELIGIBLE FOR ANOTHER INTERIM APPOINTMENT TO SUCH OFFICE IF THE APPOINTMENT SHALL HAVE BEEN DISAPPROVED BY THE SENATE.

Sec. f. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an officer UNDER IMPEACHMENT, until he shall be acquitted or until after the election and qualification of a successor.

Sec. g. The governor shall have power and it shall be his duty, [except at such time as the legislature may be in session,] to examine into the condition and administration of any public office and the acts of any public officer, elective or appointive; to remove OR SUSPEND from office for gross neglect of duty or for corrupt conduct in office, or any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and report the causes of such removal OR SUSPENSION to the legislature IF IN SESSION OR OTHERWISE at its next session.

APPOINTMENT BY AND WITH THE ADVICE AND CONSENT OF THE SENATE WHEN USED IN THIS CONSTITUTION OR IN STATUTES IN EFFECT OR HEREAFTER ENACTED SHALL MEAN APPOINTMENT SUBJECT TO DISAPPROVAL BY A MAJORITY VOTE OF THE MEMBERS ELECT OF THE SENATE IF SUCH ACTION IS TAKEN WITHIN 60 LEGISLATIVE DAYS AFTER THE DATE OF SUCH APPOINTMENT.

Mr. Martin, chairman of the committee on executive branch, submits the following reasons in support of Committee Proposal 71:

This proposal contains the major recommendations of the committee on executive branch for strengthening and improving the constitutional provisions for the executive branch in Michigan state government. The members of the committee are agreed that significant modifications are needed in the executive article of the constitution. Most of the recommendations in this proposal have the unanimous support of members of the committee.

The committee is unanimous in recommending a 4 year term for governor and lieutenant governor, with the election in even numbered nonpresidential election years. The governor now serves a 4 year term in 35 states. Several states have shifted to a 4 year term in recent years, and all of the states with recently framed or revised constitutions are in this group. In 25 of these states, the governor is not elected at the time of the presidential election. The committee believes that this arrangement as to length of term and time of election is the best combination.

The committee also unanimously approved the nomination of the lieutenant governor by party convention and his running with the governor as part of a team, with votes for the governor to be also cast for the lieutenant governor in the same manner as with the president and vice president of the United States. The committee also favors retaining the lieutenant governor as presiding officer of the senate, and it proposes that he be given a vote to break a tie. Additional duties can be delegated to him by the governor, but are not constitutionally assigned.

The committee considered carefully and extensively the question of election versus appointment of other state officers who are now elected. The recommendation of the committee, based on the majority view of its members, is that executive branch officials other than the governor and lieutenant governor should be appointed rather than elected.

The committee's action is based upon the feeling that the election of these officials does not bring government closer to the people, but on the contrary, divides authority in state government among numerous officials who have no real allegiance or responsibility to the governor and who are necessarily concerned in a major degree with furthering their own political ambitions. The majority on the committee felt that this continuing struggle for power at the top of the state government does not serve the people well and that since the people hold the governor responsible for what happens in state government, he should be permitted to appoint his principal officers subject to review by the senate. In this way the governor is made fully accountable for the actions of the executive branch of government for which the people hold him responsible.

The committee proposal assumes that the committee on legislative powers will submit with the committee on executive branch a joint committee proposal establishing the post of legislative auditor to replace the auditor general, and that the committee on education will recommend that the superintendent of public instruction be made an appointive rather than elective official. The majority of the committee on executive branch supports both of these suggestions.

The proposal suggests new language concerning the allocation of departments, procedure for administrative reorganization, the appointment and removal of department heads, and the supervision of departments by the governor. It incorporates language from sections 1 and 3 of article VI concerning duties of state officers, and the powers of the governor to take care that the laws be faithfully executed and to require information from state officers. It adds a new provision expressly authorizing the governor to resort to the courts in enforcing constitutional or legislative mandates. The proposal also recommends language which would replace section 10 of article VI on vacancies in state office, and sections 5 and 7 of article IX on provisional appointments and on removal and suspension of state officers by the governor.

The objective of the recommendation to place a limit of 20 on the number of principal departments is to reduce the number of agencies under the direct supervision of the governor to manageable proportions, and to bring about a more effective grouping of departments according to major purposes. Eight states now have comparable provisions in their constitutions. The usual constitutional maximum on the number of departments is 20. States with such a limitation include New York, New Jersey, Massachusetts, Hawaii and Alaska. The model state constitution also recommends such a restriction.

The committee proposal excepts from the limitation the offices of governor and lieutenant governor, and the governing bodies of institutions of higher education provided for in the constitution. It also authorizes the creation of temporary commissions or agencies for special purpose

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with a life of not more than 2 years. The committee has unanimously approved the recommendation, and it believes that inclusion in the new constitution of a constitutional maximum on the number of departments as proposed will bring about a much needed administrative reorganization, while providing sufficient flexibility for adjustments to meet future needs. The committee has been impressed by testimony given to it that states of comparable size, such as New York, New Jersey and Missouri, have found such limitations feasible and desirable. Adoption of this provision would retain in the hands of the legislature and the governor considerable discretion as to internal organization within the principal departments. For example, it would not prohibit the creation, for purposes of professional regulation, of professional or quasi professional licensing boards, made up in whole or in part of members of the profession, in a department of professional standards or of licensing such as now exist in several states. Under the proposal, a 2 year period would be provided for statutory allocation of departments. If not done during that time, the governor would have one year in which to make the allocation by executive order.

Another recommendation in the proposal gives constitutional status to the approach to administrative reorganization contained in Michigan public act 125 of 1958. This gives initiative in administrative reorganization to the governor with opportunity for rejection by the legislature of the governor's plans for reorganization. Alaska has included such a provision in its constitution. Several other states have granted such reorganization authority to the governor by statute. This device has been used successfully by the federal government over a period of many years. The committee believes that this procedure offers the best prospect of continuous reappraisal and adjustment of the state's administrative structure, following the initial reallocation of departments.

In choosing among several possible alternatives as to the requirement for legislative rejection of a reorganization plan, the committee favored a provision for rejection by a majority of the members elect of both houses of the legislature. The Michigan statute requires a majority of the members elect in either house to reject. The recommendation of the committee makes legislative disapproval of a proposal for reorganization somewhat more difficult than it now is under the statute, reflecting the view of a sizeable majority of committee members that reorganization plans submitted by the governor should become effective unless both houses of the legislature find them unacceptable and each house registers its disapproval. The governor is in the best position to have knowledge of the structural problems and needs that exist in the executive branch. His recommendations for administrative adjustments should be given considerable weight.

The proposal provides that the head of each principal department shall be a single executive unless otherwise provided by the constitution or by statute. Three officials are given constitutional status as single executives appointed as heads of principal executive departments. These are the secretary of state, the state treasurer and the attorney general.

The legislature would have the choice under the proposed language of providing that principal departments be headed either by a single executive who is appointed or by an appointed board or commission. It would not be possible to provide by statute for an elected department head, as is now the case with the state highway commissioner.

The proposal retains a requirement for senate review of gubernatorial appointments, both for single executives who are department heads and for members of boards or commissions. The committee has accepted the procedure suggested in Delegate Proposal 1716 concerning the nature of senatorial review. Such an appointment would be subject to disapproval by a majority vote of the members elect of the senate, provided the senate acts to disapprove within 60 legislative days after the appointment is submitted to it. If fewer than 60 legislative days remain for consideration after a submission of an appointment, the time available for possible disapproval would be extended into the next regular or special session for the balance of the specified period of 60 legislative or working days. The committee recommends this procedure as providing ample opportunity for the senate to render a negative judgment on gubernatorial appointees. At the same time, it permits the appointment to become effective unless the senate is willing to go on record as rejecting the appointee, and prevents withholding of confirmation simply by failure to act on an appointment.

In setting forth tenure and removal provisions, the proposal distinguishes between departments with single heads appointed by the governor and those headed by boards or commissions. A single executive appointed as the head of a department is to serve at the pleasure of the governor, but terms of office and conditions for removal of board and commission members may be set by law or specified in the constitution itself, as in the case of the civil service commission. When a board or commission at the head of a principal department appoints a chief executive officer as prescribed by law, the appointment must be approved by the governor except as provided elsewhere in this constitution. This recognizes the fact that such an official carries important policymaking responsibilities.

Language has been adapted from section 1 of article VI concerning the obligation of executive officials to superintend their offices in person, and perform duties as prescribed by law.

A provision, similar to that in several other recent state constitutions, states that each principal department shall be under the supervision of the governor. The proposal retains the wording of article VI, section 3, which provides that the governor shall take care that the laws be faithfully executed, and authorizes him to require information in writing from state officers. It adds a provision expressly authorizing the governor to resort to the courts to enforce compliance with any constitutional or legislative mandate, with the proviso that this authority shall not be construed to authorize any action or proceeding against the legislature. This provision is patterned after the Alaska constitution. The Hawaii constitution and the model state constitution contain similar provisions.

The recommendation concerning interim appointments is intended to clarify the power of the governor to make such appointments, and to specify that such an appointment will continue in effect unless disapproved by the senate within 60 legislative days after the beginning of its next session. In the event of disapproval, the same person is not eligible for another interim appointment to the same office.

The section concerning provisional appointments to fill vacancies caused by suspension of officers under impeachment has been transferred from article IX, where it appears as section 5.

The committee recommends retention, with one important change, of the language now in section 7 of article IX concerning the general removal power of the governor, and transfer of this provision to the executive article. The change is that the phrase in the present constitution withholding this power on the part of the governor when the legislature is not in session, has been deleted. This authorization was originally intended as a substitute for the impeachment process during times when the legislature is not in session. The committee has accepted the suggestion in Delegate Proposal 1102 that this authority should be placed in the hands of the governor at all times and should be considered supplemental to the impeachment process rather than a substitute for it. In addition, the proposal gives the governor power to suspend as well as to remove officials for the reasons set forth in the provision. These modifications have required a slight change in the wording

of the last sentence in this section, concerning the governor's duty of reporting to the legislature as to the causes of removal or suspension.

The committee proposal requires that the governor and lieutenant governor be elected in 1964 for a 2 year term and that the first 4 year term will begin after the election in 1966. State officers who are elected under the Constitution of 1908 will fill out the term for which they are elected and will thereafter be subject to appointment by the governor then holding office, with the advice and consent of the senate.

The committee on executive branch urges favorable action on these related provisions, in the expectation that their adoption will greatly strengthen the executive branch and the administrative structure of Michigan state government, while retaining proper and important controls to be exercised by the legislature.

Following is minority report A to Committee Proposal 71 as offered and the reasons submitted in support thereof:

Messrs. Bentley, Hatch, Durst, Shackleton, King, Karn and Gust, a minority of the committee on executive branch, submit the following minority report to Committee Proposal 71:

A minority of the committee recommends that the following be included in the constitution:

(Immediately following paragraph one ". . . next succeeding their election.")

NO PERSON WHO HAS BEEN ELECTED GOVERNOR FOR 2 FULL SUCCESSIVE TERMS SHALL BE AGAIN ELIGIBLE TO HOLD THAT OFFICE UNTIL ONE FULL TERM HAS INTERVENED.

Messrs. Bentley, Hatch, Durst, Shackleton, King, Karn and Gust, a minority of the committee on executive branch, submit the following reasons in support of the foregoing minority report, which accompanied Committee Proposal 71:

The minority strongly believe that the constitution should set a limit of 2 full successive terms for the governor. In justifying this departure from the present constitution, the undersigned believe that some restriction is justified in view of the fact that the term of office is to be lengthened from 2 to 4 years. Our proposed limitation would permit a governor who has served 2 terms to be elected again after a full term has intervened.

Following is minority report B to Committee Proposal 71 as offered and the reasons submitted in support thereof:

Messrs. Bentley, Hatch, Shackleton, King, Karn, Shaffer and Dean Doty, a minority of the committee on executive branch, submit the following minority report to Committee Proposal 71:

A minority of the committee recommends that the following be included in the constitution:

(Page 3, line 5)

IN EITHER HOUSE BY A RESOLUTION CONCURRED IN BY A MAJORITY

(To replace, in the committee proposal)

IN BOTH HOUSES BY A RESOLUTION CONCURRED IN BY A MAJORITY

Messrs. Bentley, Hatch, Shackleton, King, Karn, Shaffer and Dean Doty, a minority of the committee on executive branch, submit the following reasons in support of the foregoing minority report, which accompanied Committee Proposal 71:

The minority believe that legislative rejection of a reorganization plan should be permitted by a majority of the members elect in either house. This is in accordance with the present statute, Michigan public act 125 of 1958. Our proposal would still permit administrative reorganization with the governor retaining this initiative and ample opportunity for legislative rejection. But we feel strongly that in view of the fact that this represents a considerable precedent in the constitution (only adopted by one state until now) legislative disapproval of a proposal for reorganization should not be more difficult than it now is under the statute, as under the committee proposal.

Following is minority report C to Committee Proposal 71 as offered and the reasons submitted in support thereof:

Messrs. Marshall, Greene, Kelsey, Perlich, Wilkowski, Miss Hart and Mrs. Daisy Elliott, a minority of the committee on executive branch, submit the following minority report to Committee Proposal 71:

A minority of the committee recommends that the following be included in the constitution:

Sec. a. THE GOVERNOR, LIEUTENANT GOVERNOR, SECRETARY OF STATE, STATE TREASURER, AUDITOR GENERAL, ATTORNEY GENERAL, HIGHWAY COMMISSIONER, AND SUPERINTENDENT OF PUBLIC INSTRUCTION SHALL BE ELECTED AT THE GENERAL BIENNIAL ELECTION IN 1964 AND IN EACH ALTERNATE EVEN NUMBERED YEAR BEGINNING IN 1966. THEY SHALL, AFTER 1966, SERVE FOR TERMS OF 4 YEARS BEGINNING ON THE FIRST DAY OF JANUARY NEXT SUCCEEDING THEIR ELECTION.

THE LIEUTENANT GOVERNOR SHALL BE NOMINATED BY PARTY CONVENTION IN A MANNER PROVIDED BY LAW. IN THE GENERAL ELECTION THE VOTES CAST FOR A CANDIDATE FOR GOVERNOR SHALL BE CONSIDERED AS CAST ALSO FOR THE CANDIDATE FOR LIEUTENANT GOVERNOR RUNNING JOINTLY WITH HIM. THE CANDIDATE WHOSE NAME APPEARS ON THE BALLOT JOINTLY WITH THAT OF THE SUCCESSFUL CANDIDATE FOR GOVERNOR SHALL BE ELECTED LIEUTENANT GOVERNOR.

Sec. b. The lieutenant governor shall be president of the senate, but shall have no vote EXCEPT IN CASE OF EQUAL DIVISION. HE SHALL PERFORM SUCH ADDITIONAL DUTIES AS MAY BE DELEGATED TO HIM BY THE GOVERNOR.

ALL EXECUTIVE AND ADMINISTRATIVE OFFICES, AGENCIES AND INSTRUMENTALITIES OF THE STATE GOVERNMENT AND THEIR RESPECTIVE FUNCTIONS, POWERS AND DUTIES, EXCEPT AS OTHERWISE PROVIDED BY THIS CONSTITUTION, INCLUDING THE GOVERNING BODIES OF INSTITUTIONS OF HIGHER EDUCATION PROVIDED FOR IN THIS CONSTITUTION, SHALL BE ALLOCATED BY LAW AMONG AND WITHIN NOT MORE THAN 20 PRINCIPAL DEPARTMENTS, SO AS TO GROUP THEM AS FAR AS PRACTICABLE ACCORDING TO MAJOR PURPOSES. TEMPORARY COMMISSIONS OR AGENCIES FOR SPECIAL PURPOSES AND WITH A LIFE OF NO MORE THAN 2 YEARS MAY BE ESTABLISHED BY LAW AND NEED NOT BE ALLOCATED WITHIN A PRINCIPAL DEPARTMENT.

THE ALLOCATION OF DEPARTMENTS BY LAW PURSUANT TO THIS SECTION SHALL BE COMPLETED WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THIS CONSTITUTION. IF SUCH ALLOCATION SHALL NOT HAVE BEEN COMPLETED WITHIN SUCH PERIOD, THE GOVERNOR WITHIN ONE YEAR THEREAFTER, BY EXECUTIVE ORDER, SHALL MAKE SUCH ALLOCATION.

SUBSEQUENT TO SUCH ALLOCATION, THE GOVERNOR MAY MAKE CHANGES IN THE ORGANIZATION OF THE EXECUTIVE BRANCH OR IN THE ASSIGNMENT OF FUNCTIONS AMONG ITS UNITS WHICH HE CONSIDERS NECESSARY FOR EFFICIENT ADMINISTRATION. WHERE THESE CHANGES

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REQUIRE THE FORCE OF LAW, THEY SHALL BE SET FORTH IN EXECUTIVE ORDERS. THE LEGISLATURE SHALL HAVE 60 DAYS OF A REGULAR SESSION, OR A FULL SESSION IF OF SHORTER DURATION, TO DISAPPROVE THESE EXECUTIVE ORDERS. UNLESS DISAPPROVED IN BOTH HOUSES BY A RESOLUTION CONCURRED IN BY A 2/3 MAJORITY OF THE MEMBERS ELECT OF EACH HOUSE, THESE ORDERS SHALL BECOME EFFECTIVE AT A DATE THEREAFTER TO BE DESIGNATED BY THE GOVERNOR.

THE HEAD OF EACH PRINCIPAL DEPARTMENT SHALL BE A SINGLE EXECUTIVE UNLESS OTHERWISE PROVIDED IN THIS CONSTITUTION OR BY LAW.

WHEN A BOARD OR COMMISSION IS AT THE HEAD OF A PRINCIPAL DEPARTMENT, THE MEMBERS THEREOF SHALL BE APPOINTED BY THE GOVERNOR. THE TERM OF OFFICE AND THE REMOVAL OF SUCH MEMBERS SHALL BE AS PRESCRIBED IN THIS CONSTITUTION OR BY LAW. WHEN A CHIEF EXECUTIVE OFFICER OF A BOARD OR COMMISSION HEADING A PRINCIPAL DEPARTMENT IS APPOINTED BY SUCH BOARD OR COMMISSION AS PRESCRIBED BY LAW, HIS APPOINTMENT SHALL BE SUBJECT TO THE APPROVAL OF THE GOVERNOR EXCEPT AS OTHERWISE PROVIDED IN THIS CONSTITUTION.

Sec. c. SINGLE EXECUTIVES HEADING PRINCIPAL DEPARTMENTS AND THE CHIEF EXECUTIVE OFFICERS OF PRINCIPAL DEPARTMENTS HEADED BY BOARDS OR COMMISSIONS SHALL KEEP THEIR OFFICES AT THE SEAT OF GOVERNMENT, EXCEPT AS OTHERWISE PROVIDED BY LAW, SUPERINTEND THEM IN PERSON AND PERFORM SUCH DUTIES AS MAY BE PRESCRIBED BY LAW.

Sec. d. EACH PRINCIPAL DEPARTMENT SHALL BE UNDER THE SUPERVISION OF THE GOVERNOR, UNLESS OTHERWISE PROVIDED BY THE CONSTITUTION. The governor shall take care that the laws be faithfully executed; shall transact all necessary business with the officers of government; and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

THE GOVERNOR MAY, BY APPROPRIATE COURT ACTION OR PROCEEDING BROUGHT IN THE NAME OF THE STATE, ENFORCE COMPLIANCE WITH ANY CONSTITUTIONAL OR LEGISLATIVE MANDATE, OR RESTRAIN VIOLATIONS OF ANY CONSTITUTIONAL OR LEGISLATIVE POWER, DUTY, OR RIGHT BY ANY OFFICER, DEPARTMENT, OR AGENCY OF THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS. THIS AUTHORITY SHALL NOT BE CONSTRUED TO AUTHORIZE ANY ACTION OR PROCEEDING AGAINST THE LEGISLATURE.

Sec. e. Whenever a vacancy shall occur in any of the state offices, the governor shall fill the same by appointment.

Sec. f. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an officer, until he shall be acquitted or until after the election and qualification of a successor.

Sec. g. The governor shall have power and it shall be his duty, except at such time as the legislature may be in session, to examine into the condition and administration of any public office and the acts of any public officer, elective or appointive; to remove from office for gross neglect of duty or for corrupt conduct in office, or any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and report the causes of such removal to the legislature at its next session.

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Messrs. Marshall, Greene, Kelsey, Perlich, Wilkowski, Miss Hart and Mrs. Daisy Elliott, a minority of the committee on executive branch, submit the following reasons in support of the foregoing minority report, which accompanied Committee Proposal 71:

We believe strongly in the popular election of members of the administrative board. These include the lieutenant governor, secretary of state, highway commissioner, attorney general, state treasurer, auditor general and superintendent of public instruction.

We can point to the historical success of this system. We can point out that it provides for responsible citizen participation in government, and contains safeguards against gubernatorial abuse of the appointive powers.

But few things exist independent of other factors. If the house and senate were apportioned on an equitable population basis—a vote for each person—then there would, of course, be guarantees that the governor would get the sort of administrative board he needed to implement his policies. With the present terminology of advice and consent, we have to refer to that old army saying, "when in doubt—don't." A house and senate antagonistic to the governor can readily block his appointments. We have a formidable list of precedents of such gubernatorial rebuke during the Williams and Swainson administrations as you all well know.

There is no evidence that the public wants this provision for election of their state officials to be changed. Certainly the events which brought the constitutional convention into being—the unjust apportionment of the legislature, the financial crisis, the new problems of metropolitan areas in the face of an immense population explosion—are not related to the election or appointment of state officials.

Therefore, we strongly advocate first, election of a secretary of state by the people. Inasmuch as he bears much responsibility for assuring honesty in elections, we want him to be independently and directly answerable to the people.

We favor election of the highway commissioner, a device which has assured the state a highway system which its citizens can point to with pride. As Commissioner Mackie pointed out in previous testimony, an elected highway commissioner can pinpoint responsibility for highway administration. Under the appointive system the pressure on a governor to "trade roads" for other parts of his program would be enormous. Further, election of a highway commissioner helps promote continuity of policy, so essential to the development of long range highway plans and programs for the state, city and county.

We favor election of the attorney general, the chief law enforcement officer of the state. In a representative government, appointment of the chief law enforcement officer would place him in a position of obligation which would make his duties more difficult. If the attorney general were appointed, he could be subjected to the influences of the appointing authority. Presently, he is able to make an independent legal judgment which might differ from the political decisions of other members of the executive branch.

We also want to emphasize that those offices concerned with handling the people's money—the treasurer and the auditor general—should be directly answerable to the people. The people should have an auditor who is elected by them and directly responsible to them. Michigan's history of dollar honesty in state government, regardless of party in power, has resulted partly from the high character of our citizens and partly from our form of government, with divided constitutional authority among law enforcement officials, financial officials, and other executive officials.

We want a school superintendent elected by the people and accountable to them for the decisions he makes concerning their youngsters. An elected superintendent will have the constitutional status and responsibility to support

the needs of education in meetings of the administrative board and throughout his public activities.

Another reason for opposing the majority report is the veto power by the senate over appointments, a form of "advice and consent". A legislative body that is not truly representative of the electorate is not interested in implementing the powers or assuring the effectiveness of the chief executive. The advice and consent (or veto) concept can only mean that a minority of the people electing a majority of the senators would be able to block the wishes of a governor elected by the majority. Advice and consent forces a governor elected by a majority into an impossible struggle against a form of state government that cannot be representative of the people because of its very structure.

The minority report will result in responsible constitutional government. The governor's power will be sufficiently limited to prevent any undue usurpation of power by him, but at the same time, he will have sufficient flexibility to permit him to carry out his constitutional responsibilities. If power corrupts and absolute power corrupts absolutely, we have found in this report the realistic balance between responsible government and citizen participation.

[Section a was read by the secretary. For text, see above, page 1766.]

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin. Excuse me. Mr. Marshall.

MR. MARSHALL: Yes. I was on the floor seeking recognition. I wish to make a brief statement and then I have a motion to make. I trust that the delegates take this in the same vein that it is given. On Thursday and Friday of last week, there was much talk on the floor of the convention and in the daily press about an alleged deal that had been consummated between factions within the convention. One of our very esteemed and distinguished delegates saw fit to take the floor and make a half hour or 45 minute speech explaining the alleged deal. Later a press conference was held, at which time the alleged deal was explained to the press, and all of you read that in the daily press. Now, because of the involvement—at least the stories in the press—by the explanation on the floor of this distinguished delegate and colleague of ours and in fairness to him and at the same time in fairness to all of the delegates here, that we might have his advice and counsel as we consider what I believe to be one of the most important issues before this convention, and inasmuch as the article that we are now about to take up is directly involved in the alleged deal, I would at this time, Mr. Chairman, move that we pass over Committee Proposal 71 until Friday morning, until the return of this very distinguished delegate, in order that we might have his advice and counsel in the debate, and I urge its adoption. Thank you.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, we reached this in the order of business here and it seems to me we are prepared to go ahead on the matter. I see no reason why we shouldn't get it under way right now. It seems to me that all the questions that are likely to need consideration can come up and we will be discussing this for a long time. I am afraid we are going to be discussing it for several days and there will be plenty of time for everybody to be heard.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: I yield to Delegate Ford, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Ford.

MR. FORD: Mr. Chairman, Mr. Martin's concern today with staying with the calendar is certainly not in keeping with what he expressed to us the other day when this was passed over. It was at the head of the calendar and was shoved down here on Thursday. We didn't know why on Friday. Some of us left here thinking we knew why. Some of us left here rather unhappy, thinking that Mr. Martin participated in setting the stage for what was done Thursday night. I think now that Mr. Marshall is raising a valid point here.

As far as the constituents in my area are concerned, they have been informed through the press and other means that a man who is supposedly a leader in this convention has answered this problem for us by bringing together divergent forces and "preventing the radical Democrats from Wayne county from getting together with the Hale Brake Republicans." This being the case, I don't think that we should proceed without having the benefit of his counsel, since he seems to be the man with the principal and most intimate knowledge of the details of what we are going to adopt here and probably we could save a lot of debate if we had the benefit of it at the beginning. I think that the reason for passing now is far more valid than the reasons given last Thursday when we passed over this thing in order to start taking up the ad board one item at a time. I support Mr. Marshall's motion.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: I have nothing further to say. Only that I urge its adoption.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: I think we are fully ready to take the matter up and all the delegates will have an opportunity to express themselves in due course on this. I would move that the motion be defeated.

CHAIRMAN MILLARD: Mr. Brown, were you seeking recognition?

MR. G. E. BROWN: I'll pass.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: I would just like to point out to our honorable committee chairman that we also were ready to proceed with Committee Proposal 71 the other day when the general orders were changed on us without any advance notice by a motion on the floor coming from the committee chairman. I think that at least we are playing the rules clean and the game according to the rules. I feel that inasmuch as there was considerable publicity, speeches on the floor of this convention, press conferences held, people throughout the state having read these, I think that the delegates to this convention and the people are entitled to have one of the moving parties —at least apparently from the papers—in this alleged deal present when this issue is debated on the floor. I do not believe that my motion to pass over this until Friday morning and proceed with the other orders of business is unreasonable. Thank you.

CHAIRMAN MILLARD: The Chair recognizes Mr. Walker.

MR. WALKER: A question of Mr. Martin through the Chair, please.

CHAIRMAN MILLARD: If Mr. Martin cares to answer.

MR. WALKER: Mr. Martin, only to save the time of this committee, from your insistence that you are ready to go ahead today, are we to interpret that as meaning that a deal has been consummated? If so, we can eliminate any debate and get on with the voting.

MR. MARTIN: Mr. Chairman, Mr. Walker, you are not to put any words in my mouth and you are not to draw any conclusions of that kind or any other kind of that nature. We have reached this in the normal course here. We have delayed it to give people a chance to discuss this matter. Both sides have had an opportunity to review it. And this is the next order of business. I suggest that we go ahead with the order, Mr. Chairman.

CHAIRMAN MILLARD: Do you have anything further on the question, Mr. Walker?

MR. WALKER: I have no further questions of Mr. Martin. May I make one more remark, please, sir?

CHAIRMAN MILLARD: Go right ahead, Mr. Walker.

MR. WALKER: It would appear to me that Mr. Marshall's remarks today and reasons were more cogent than any that we could find for Mr. Martin's the other day. And therefore, I would suggest that we adopt Mr. Marshall's motion.

CHAIRMAN MILLARD: Mr. Stamm.

MR. STAMM: I think this is a very reasonable request. I would like to see this committee grant it with the one condition that they also have Governor Swainson at the session Friday so that he may also speak on this article because I am sure it would be of much interest to both political parties, certainly

should be made. The lieutenant governor should be nominated at the party convention. And I agree with what I assume is the thinking of the committee that the legislature probably would not make the change. If we are to put this in the constitution, it seems to me we should put in all of the elected officers who are to be nominated — that is, the administrative officers, members of the ad board who are to be nominated at the convention and have the whole statement in one place. I trust this won't start a long line of debate. It is not of prime importance but it seems to me just a matter of convenience in having all 3 of them together.

CHAIRMAN MILLARD: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. Chairman, Mr. Brake, your understanding as to the view of the committee, I think, is correct. If the secretary of state and the attorney general are to be elected — and that is the status of matters at the present time — I would see no objection to adding their names here since we have specifically provided this with respect to the lieutenant governor.

CHAIRMAN MILLARD: Delegate Powell.

MR. POWELL: Mr. Chairman, members of the committee, I find myself a little bit confused right here. I thought the minority had just withdrawn this particular paragraph, and now we are amending a paragraph that is withdrawn. What happened?

CHAIRMAN MILLARD: Mr. Powell, the committee proposal, paragraph 2, and the minority report, paragraph 2, were the same, so the minority report has been withdrawn and we are now on the committee proposal, paragraph 2.

MR. POWELL: Well, I had understood yesterday that we were proceeding on the whole minority report with the idea of sort of perfecting that, and then it would be considered as to whether or not it was a substitute for the original majority report. Maybe we are taking section by section, comparing back and forth. Is that the idea?

CHAIRMAN MILLARD: Taking paragraph by paragraph, Mr. Powell.

MR. POWELL: Comparing one with the other?

CHAIRMAN MILLARD: That is right. Mr. Young.

MR. YOUNG: Mr. Chairman, I would like to ask a question of Mr. Brake, if I may.

CHAIRMAN MILLARD: Mr. Brake, if you care to answer.

MR. YOUNG: The section as now amended would provide for the method of nomination of the attorney general and the secretary of state. Down further in the section we also provide for the method of election, in team with the governor, the lieutenant governor. No provision is made for the election of secretary of state or attorney general. Now, does that mean this will be left to the legislature, or will they run as a part of that same team, or will they run as individuals? Or what provision, if any, should be made for that?

CHAIRMAN MILLARD: Mr. Brake.

MR. BRAKE: Mr. Chairman, Mr. Young, I assume that the present statute would stand and they would run on the same ticket, but not with their election dependent upon the election of the governor.

MR. YOUNG: Since the constitution sees fit to declare clearly how the lieutenant governor shall be elected, don't you feel that we should extend that reasoning and provide specifically for direction in the method of election of these 2 other officers?

CHAIRMAN MILLARD: Mr. Young, are you directing a question?

MR. YOUNG: Through the Chair, please.

CHAIRMAN MILLARD: Through the Chair, and is this directed to Mr. Brake?

MR. YOUNG: Yes.

CHAIRMAN MILLARD: Mr. Brake.

MR. BRAKE: Mr. Chairman, Mr. Young, I would not think so. That is well established in practice and well established in the statutes. I would see no reason for making a change.

CHAIRMAN MILLARD: The question is on the Brake amendment to paragraph 2 of section a. All in favor will say aye. Opposed, no.

The amendment is adopted. The secretary will read.

SECRETARY CHASE: Mr. Hubbs offers the following amendment:

1. Amend page 1, at the beginning of line 20, by inserting "The governor and"; so the language will then read, "The governor and the lieutenant governor, secretary of state and attorney general shall be nominated by party convention in a manner provided by law."

CHAIRMAN MILLARD: The Chair will recognize Delegate Hubbs.

MR. HUBBS: Mr. Chairman, my fellow delegates, I permitted this amendment to be introduced this morning for only one reason. I want you to be aware of the fact that I think it would be advisable to nominate the governor in party convention. However, I realize that this is likely to be a very controversial subject and I do not feel that it should be placed in that situation at this time. I honestly believe that the motive of this amendment is one that is designed to improve the political situation in Michigan and in the long run will be of great benefit to the people of this state. However, at this time I feel the situation would make it inconceivable that we could gain the kind of bipartisan support that I feel it should have, and I therefore respectfully request that it be withdrawn.

CHAIRMAN MILLARD: The Hubbs amendment to paragraph 2 of section a of Committee Proposal 71 is withdrawn. Are there any further amendments, Mr. Secretary?

SECRETARY CHASE: There are no further amendments to the second paragraph of section a on file.

CHAIRMAN MILLARD: Are there any amendments to the body of section a of Committee Proposal 71, paragraphs 1 and 2? If not, it will pass.

Section a, as amended, is passed. The secretary will read.

SECRETARY CHASE: Section b:

[Section b, paragraph 1, was read by the secretary. For text, see above, page 1766.]

CHAIRMAN MILLARD: The Chair recognizes the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, this first paragraph of section b simply adds to the authority of the lieutenant governor to the extent of permitting him to break a tie vote. It also specifically provides that he shall perform such additional duties as may be delegated to him by the governor. The purpose of this, of course, is to enable the governor to have a more useful lieutenant governor and this, I think, would enable him to do just that. The problem so far as the lieutenant governor is concerned is that if he serves solely as a presiding officer of the senate, he is not being as useful as many people think he could be, and we are trying to give the lieutenant governor a more responsible job without trying to specify here in the constitution just exactly what those duties should be. So the proviso leaves it to the governor to make use of him for various responsibilities: to work on study commissions, chairing study commissions, handling other matters of that kind, ceremonial matters, acting as liaison with the legislature and various other responsibilities.

CHAIRMAN MILLARD: Delegate Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I would like to direct a question to Mr. Martin.

CHAIRMAN MILLARD: Mr. Martin, if you care to answer.

MR. HUTCHINSON: Mr. Martin, the wording of this proposal, sir, says that the lieutenant governor may be given such additional duties as may be delegated to him by the governor. My question is this, sir: would you understand that that language in the constitution might be construed to prevent the legislature from placing any additional responsibilities in the lieutenant governor by law? Specifically I have in mind the state administrative board, which is a statutory agency, and the lieutenant governor sits on the administrative board by reason of a statute. With this language in the constitution, would you think it within the power of the legislature to direct duties upon the lieutenant governor?

MR. MARTIN: Mr. Chairman, Mr. Hutchinson, I think that it would not be possible with this language for the legislature

to assign the duties to the lieutenant governor, and I think I would have to say that it could not place him on the administrative board. It could provide that the governor might delegate him responsibilities with respect to the administrative board, but I believe that this would not permit the legislature to provide so directly.

CHAIRMAN MILLARD: The Chair will recognize the delegate from Detroit, Mr. Cudlip.

MR. CUDLIP: Mr. Chairman, through the Chair I would like to ask Chairman Martin a question.

CHAIRMAN MILLARD: Mr. Martin, if you care to answer.

MR. CUDLIP: I think we all appreciate the desirability of such a proposal, and I know the reason therefor. We have had lots of experience in the administrations of President Truman and President Eisenhower and I believe even President Roosevelt with respect to providing more work for the vice president in addition to his duties as presiding officer. However, this word "delegate" bothers me a bit. My question to Mr. Martin is whether he feels that this language would in any way impair or disparage the philosophy of separate branches of government, the 3 branches that we have, legislative, executive and judicial. I don't think we want to write into the constitution the fact that anything that inheres in the gubernatorial office as such within this principle can at will, by virtue of a note or letter, be given to this other gentleman, the lieutenant governor, and I am sure that is a fundamental principle of government. I think what we are trying to do is assign him some tasks but not in derogation of that principle. That is my question at least, Mr. Martin.

MR. MARTIN: Mr. Chairman, Mr. Cudlip, I think the committee had this in mind. They did not want to confuse the responsibilities of the 2 branches, and this was the reason they provided for delegation by the governor. This, I assume, would be subject to some limitation by the legislature. But in general it would be a delegation of responsibilities which the governor himself had been given, and of course the lieutenant governor would be simply acting as his agent in that respect. He would not be acting on any original authority basis.

MR. CUDLIP: Mr. Chairman, may I ask further questions?

CHAIRMAN MILLARD: Go ahead, Mr. Cudlip.

MR. CUDLIP: Mr. Martin, would this mean, for example, that a governor could ask the lieutenant governor to take over his duties with respect to calling out the militia, granting pardons and other things that in our system of government are attached to the chief executive office? This word "delegate" is a broad word, and we are writing a constitution. I am in favor of the idea that people have in mind, but I am worried.

MR. MARTIN: I would have to say I don't think so, Mr. Cudlip. I think those would be, in a sense, nondelegable functions of the governor where they are specifically entrusted to him by the constitution. However, there are certain responsibilities entrusted to him by the legislature which he might be able to delegate.

MR. CUDLIP: Thank you, Mr. Chairman. Thank you, Mr. Martin and members of the committee.

CHAIRMAN MILLARD: The question is on the first paragraph of section b of Committee Proposal 71. The secretary will read.

SECRETARY CHASE: Mr. Brake offers the following amendment:

1. Amend page 2, line 9, after the word "governor" by inserting "or legislature"; so the language will then read, "He shall perform such additional duties as may be delegated to him by the governor or legislature."

CHAIRMAN MILLARD: Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, it seems to me that the fixing of the duties of an elected officer is the business of the legislature, not the business of the governor. As Senator Hutchinson has called to our attention, the language of the committee would bar the lieutenant governor from the administrative board unless the governor happened to see fit to name him to that board. The legislature has set up the administrative board. It is a statutory matter, pure and simple, and certainly the legislature ought to have the power to say who shall be on the administrative board. That should not be left to the whim or to the reasoning of the governor. The lieutenant governor belongs on the administrative board and should be there unless the legislature changes its mind and takes him off.

CHAIRMAN MILLARD: The Chair recognizes Delegate Downs.

MR. DOWNS: I wondered if Delegate Brake would care to answer a question.

CHAIRMAN MILLARD: Mr. Brake.

MR. DOWNS: Delegate Brake, I will try to make it a short question. I can see the point about the ad board, and personally I would not object to saying in the constitution that the governor and lieutenant governor and other officials be on the ad board and establish that in the constitution. What concerns me is when we say in effect the lieutenant governor shall do what the governor or the legislature assigns him to do. I raise the question with you if that really doesn't give him 2 bosses, and what if each one gives him something conflicting to do, or what if each one gives him something that may not be conflicting but from a time viewpoint would mean he would have to be 2 places at once? How does the poor fellow decide what to do in this case?

MR. BRAKE: Well, Mr. Chairman, Mr. Downs, if I were doing it, I would take the governor's name out of there. I think the assigning of the duties of an officer, particularly an elected officer, is the legislature's business and not the governor's business. I would not expect that there would be conflict between the 2 if it were left as it is. Certainly the legislature should not be left out.

MR. DOWNS: Well, I think from a viewpoint of responsibility and the prevention of confusion, your statement would at least put it in one place. Are you suggesting that as an amendment to your amendment or a substitute to strike the word "governor"?

MR. BRAKE: No. But if you put it in, I won't object. (laughter)

MR. DOWNS: I was going to suggest that to have 1 boss, we strike the word "legislature" and leave it as it is. (laughter) We can have it 1 either way. I wouldn't call this a 2 headed monstrosity; it isn't that big. But I would feel, Mr. Chairman and delegates, that this is an invitation to an irresponsible organization of government. We talked a lot about private industry, and I cannot conceive of a private industry creating a position and saying that the man shall be responsible to 1 individual or a group of legislators who might not always be consistent with each other in their objectives.

Delegate Brake has answered my question. I appreciate his forthright answer to it. But because of that confusion, I would argue against the amendment. I would suggest, from a viewpoint of preventing the conflict, that either the word "governor" or "legislature" be used. I think this is the worst possible choice. Then if just the one word were used, "legislature", I would be glad to discuss that, but since all we have before us is the present alternative language, I would speak in opposition to the amendment. Thank you.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Adrian, Delegate Durst.

MR. DURST: Mr. Chairman, members of the committee, I submit that at this point the court house — radical coalition of yesterday is coming apart somewhat. I believe that, practically unanimously, our committee rejected language similar to Mr. Brake's or this concept of giving the legislature control over the activities of the lieutenant governor. Our reason was this: in creating this type of procedure where the lieutenant governor is nominated and runs on the same ballot with the governor, we hoped to create the type of situation where we would get the same type of cooperation between the governor and the lieutenant governor that we have had between President Eisenhower and Mr. Nixon. It was our idea that he could become, if the governor saw fit, a sort of trouble shooter for the governor to be available to do the extra special tasks of government which the governor is faced with, to give him advice as it is needed. It was our feeling that if we subjected this man to doing those duties which are assigned to him by

the legislature, that ultimately there would be a conflict. The legislature would be assigning him duties that would make him unavailable to do the things which the governor found necessary.

I realize that there will be such times when the governor and lieutenant governor do not get along that well together and that this may shunt the lieutenant governor to the side. But we felt that in the long run this was the better alternative, to leave it free for the governor to establish those duties which he desired the lieutenant governor to do, and that in doing so we would probably be creating a situation where the lieutenant governor would have more responsibility and would be better informed upon the activities of the executive branch of government. So I oppose the Brake amendment.

CHAIRMAN MILLARD: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, it is obvious that this little matter again brings up a very basic difference in philosophy and beliefs on this convention floor, and I state my own: it seems to me that the vesting of power — that is, to determine what officers shall do what — is traditionally and soundly a responsibility of the legislature. The manner of their performance in the executive branch is the responsibility of the governor, but what they shall do is legislative.

We create in our constitution various officers. We create the office of secretary of state. We create the office of state treasurer and others. We do not in the constitution say that the governor shall say what those officers shall do. We are perfectly content to leave it to the legislature to implement, define and enlarge their powers. The matter brought up by Mr. Cudlip, I think, gets right at the very root of the problem here. Mr. Martin assures us that it was not the intent of his committee to create a situation where the governor might delegate those responsibilities which are peculiarly the responsibility of the chief executive to his lieutenant. Nevertheless, this language doesn't assure us that it could not come about, and a reasonable check on that would be to let the legislature say what powers shall be vested in the lieutenant governor.

I suppose that some of you are fearful that the legislature in its majority might be of a different party than the lieutenant governor and would not be disposed to give him anything to do. On the other hand, the more realistic approach to this is that the lieutenant governor as president of the senate has and should have a considerable influence in the legislature, and I have no doubt in my mind but that if the legislature at one time provides that the lieutenant governor shall head up a particular department, I don't think that the legislature is going to turn around and arbitrarily and shortsightedly and so on take the power away from him. I am thinking about the fact — I believe it is in Indiana — that the lieutenant governor by statute is the head of their department of agriculture. I wouldn't submit that that would be a proper duty, necessarily, for the lieutenant governor of Michigan, but that is the way Indiana solved the problem. The intent was, I think, to recognize that if you are going to have a lieutenant governor, he should not continue to be a fifth wheel; that we cannot at this time in this day and age afford the luxury of a state officer that has nothing to do except preside over the senate, because the senate can just as well provide for its own presiding officer.

It was my position in coming into this convention that the lieutenant governor should be abolished entirely. We could get along without a lieutenant governor. I agree, however, that if you are going to have the officer, you should give him something to do. So our only quarrel, apparently, among ourselves is how those duties should be assigned to him.

I submit to you to look into the history of the fabric of our system and ask yourselves whether, really, this isn't a job for the legislature. I cannot differentiate between letting the legislature describe and define and impose duties and responsibilities upon other state officers and denying to the legislature the right to do so with regard to the lieutenant governor. I would hope that Mr. Brake's amendment would be adopted, and that if it is adopted, that we then could go ahead and strike out the reference to the governor here.

CHAIRMAN MILLARD: The question is on the Brake amendment. Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, I want to reply to some things that have been said. Mr. Durst seemed to be disturbed that the legislature would so burden the lieutenant governor that he wouldn't have time to do what the governor wanted done. We have 125 or more years of Michigan history to the exact contrary. The complaint has been that the legislature never gave the lieutenant governor enough to do. They have given him one thing to do that he should continue to do.

We don't let the governor assign the duties to any other elective office. The governor himself has most of his duties spelled out by the legislature. So have the attorney general, the secretary of state and all the others. Now we want to take from them the power over this particular office. It seems to me that very clearly we are infringing upon the jurisdiction of the legislature. Over and over again we have had the statement made here: we should have a strong governor. We should have a strong legislature. Actions speak louder than words. Every step we take with reference to the legislature weakens it. True, the other day we gave the legislature the power to pick the auditor general, and we turned right around and tied their hands so if they make a bad choice, they can do nothing about it for 8 years. And this is just another step in not making a strong legislature but in weakening it and taking away from it one of its functions.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Battle Creek, Delegate Everett.

MR. EVERETT: Mr. Chairman, fellow delegates, it seems to me that the position of Senator Hutchinson and Mr. Brake can be reconciled with the committee proposal without this amendment. We are not suggesting here that the legislature would be hampered in any way in setting forth what are executive functions. Except for those which are spelled out in the constitution, obviously the legislature determines what will be done by the executive department of government, and it would continue to have that function. The only thing we are saying here is that the portion of the executive functions which will be filled by the lieutenant governor will be designated by the governor. If they are to run as a team and if he is to serve as sort of a righthand man of the governor, it seems to me at least the governor ought to have the right to direct which portion of the executive functions will be performed by him. It is quite probable that there would be no great conflict between what the legislature might tell him to do and what the governor might tell him to do, but I think the possibility of this conflict ought to be removed by submitting that one or the other has the power to determine this, and it would certainly break up the team and would break down the committee's theory that the lieutenant governor should be a righthand man of the governor if you deprive the governor of this ability to designate that portion of the executive functions which should be carried out by the lieutenant governor. For that reason, I would oppose the amendment and support the committee position.

CHAIRMAN MILLARD: Delegate Downs.

MR. DOWNS: Mr. Chairman and fellow delegates, I think we are getting at a fascinating aspect of government and I would like to make a few comments on this. I was very interested that Delegate Brake just said that in creating the legislative auditor, we limited the power of the legislature because we provided an 8 year term that could not be rejected without a 2/3 vote. I would just like to remind him that this was the very statement I attempted to get across on the floor, and I for one voted against the legislative auditor on one basis: that it did limit the legislature; that it had the power to hire staff and so on.

I think what this would do from the legislature's viewpoint is say that it would have, in effect, an employee, but the employee would be elected by the people. This is just as illogical as it would be to do the other thing, and I think that if the legislature wants work done, if it is a matter of research of the legislative functions, it certainly has the power to

create those positions or whatever is needed and to do that. This amendment would be both a limitation on the legislature and also a limitation on the governor because of that inevitable conflict that I think might result. I think this would mean the lieutenant governor was neither fish nor fowl nor good red herring. If the intent of the committee is to strengthen the governor, see that the lieutenant governor runs with the governor and they run as a team and then the lieutenant governor has the constitutional status to assist the governor in his functions, I think if that is what we believe in, we should defeat the amendment and support what is an agreement of both the minority report and the majority report.

The other aspect of this that comes up—and I will just touch on it very briefly—is that the governor and the lieutenant governor would be elected on a one man, one vote basis and in that sense be jointly representative of the whole state, and this amendment, I am afraid, unless there is something done in legislative organization that I do not yet anticipate, would create a potential built in conflict that is not sound for the governor, for the legislature or for the voters and people of this state. I urge the defeat of the amendment.

CHAIRMAN MILLARD: The question is on the Brake amendment to paragraph 1 of section b of Committee Proposal 71.

MR. BRAKE: I ask for a division, Mr. Chairman.

CHAIRMAN MILLARD: A division has been called for. Is there support? Sufficient up. The secretary will read the amendment.

SECRETARY CHASE: The pending amendment offered by Mr. Brake:

[The amendment was again read by the secretary. For text, see above, page 1823.]

CHAIRMAN MILLARD: The question is on the Brake amendment which has just been read. All in favor will vote aye. All those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Brake, the yeas are 35; the nays are 70.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Mr. Wanger offers the following amendment:

1. Amend page 2, line 6, after "but" by striking out "shall have no vote except in case of equal division.", and inserting "may vote only when his vote would change the result."; so the language would then read, "The lieutenant governor shall be president of the senate, but may vote only when his vote would change the result."

CHAIRMAN MILLARD: The Chair will recognize the proponent of the amendment, Mr. Wanger.

MR. WANGER: Mr. Chairman, I do not anticipate that this would be a very controversial matter. However, I offer the amendment for the following reason: it seems to me to be quite illogical to allow the lieutenant governor to break a tie but not allow him to either make a tie or break one on matters such as constitutional resolutions where a 2/3 vote of the body may be required, and therefore it seems to me quite clear that either this officer should have no vote at all or he should have a vote when his vote would change the result.

CHAIRMAN MILLARD: Delegate Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I would rise in opposition to this amendment. I can see in it this effect which I don't believe I would agree to: let us assume then that you have a bill over there in the senate with 17 votes for it and it takes 18 votes to pass a bill. Then you would let the lieutenant governor make up the constitutional majority to pass the bill. I don't think that we want to do that. I wouldn't. I can well remember one time when the eighteenth vote was off the floor and it so happened that it was a bill I was opposed to, so I was very happy to see that eighteenth vote not on the floor. When he came back in, he asked unanimous consent to be recorded as voting in favor of it, and that would have changed the result. Well, that couldn't be done without unanimous consent and he didn't get unanimous consent.

I don't think that it would be good policy to let the lieutenant governor be a senator at large to make law that which has not been able to win a majority of the senators elect, except in that extreme situation where they are equally divided. And there would be no need of giving the lieutenant governor any power at all to break a tie vote if we had a constitutionally odd numbered senate so there would always be a number of senators not evenly divisible by 2 making up the body. Since our history is that we have even numbered senates, it is only sensible to let the lieutenant governor break a tie. But I would not be in favor of letting him cast the vote to make the constitutional majority in every case like your amendment would do.

CHAIRMAN MILLARD: Mr. Wanger.

MR. WANGER: Mr. Chairman and members of the committee, it seems to me quite clear that under cases where the senate is equally divided, under the present language the lieutenant governor has the power to make this constitutional majority, and it seems to me it is a question of logic in this case, and to a certain extent it is most illogical to permit him to vote only in this limited situation and deny him the right to change the result of a vote in any other situation, and I think it is clear we should either go all one way or all the other.

There is a very limited amount of power involved. It is, of course, one vote, but I can see no reason why, for example, apart from the matter of constitutional majority, the lieutenant governor should be given this "equal division" vote and yet prevented from making a tie, because you know when you make a tie, then the matter under consideration fails.

Also, with respect to the question of 2/3 vote, when the legislature seeks to amend the constitution, it must get a 2/3 vote of the senate in order to do so. If his vote would change the result, why should the lieutenant governor be forbidden from either making or breaking a tie under those circumstances and yet allow him to break a tie when the body is equally divided? It is completely inconsistent and illogical, and therefore I urge your support for this amendment or, in the alternative, to strike out his power to vote altogether.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, Mr. Hutchinson has stated very ably the reasons why I feel sure the committee would not favor the present amendment. It is not desired to get the lieutenant governor into the business of deciding all of these questions that might come up, and that could frequently happen if he is given the right to add his one vote to the number necessary to provide the 18 or whatever is the constitutional majority. So I am sure the committee would be opposed to this amendment.

CHAIRMAN MILLARD: The Chair recognizes Delegate Hoxie from St. Louis.

MR. HOXIE: Mr. Chairman, I would like to ask a question through the Chair.

CHAIRMAN MILLARD: To Mr. Wanger?

MR. HOXIE: No. My question is of Delegate Gust—if he has any views on this proposed amendment. (laughter)

CHAIRMAN MILLARD: Delegate Wanger.

MR. WANGER: Mr. Chairman, I would like to direct a question through the Chair to the chairman of the committee, Mr. Martin.

CHAIRMAN MILLARD: If Mr. Martin cares to answer.

MR. WANGER: And to ask him why, then, any vote was given to the lieutenant governor at all? On an equal division, you know, the matter fails. Now, why should the lieutenant governor be given the power to have something passed which otherwise could not have passed in this limited situation? It seems to me that your arguments against my amendment apply with equal force and vigor against what the committee itself has proposed.

MR. MARTIN: Mr. Chairman, Mr. Wanger, the committee envisioned that this would be a relatively rare situation which would arise, and that it is generally an unfortunate thing from the standpoint of the people watching the legislative process

to find the legislature deadlocked on an issue by an absolutely even vote, and that it is desirable from the standpoint of having the people feel that the legislative process does and can move forward at all times to have it possible for a tie vote to be broken. I think this is the rationale of the committee proposal.

CHAIRMAN MILLARD: Is there anything further, Mr. Wanger?

MR. WANGER: Only this: that the same argument would apply to permitting the officer to vote on matters with respect to which a 2/3 vote is required, and that is clearly prohibited by the committee's proposal.

CHAIRMAN MILLARD: The Chair recognizes Delegate Bentley.

MR. BENTLEY: Mr. Chairman, I would just like to point out to Mr. Wanger that this committee proposal would exactly parallel the situation in the United States senate in Washington where the vice president presides over the United States senate and does have the right to vote, which he has exercised in the past, in case of a tie vote, and then only.

CHAIRMAN MILLARD: The Chair recognizes Garry Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee, I would like to address a question to Mr. Wanger.

CHAIRMAN MILLARD: If Mr. Wanger cares to answer.

MR. G. E. BROWN: Mr. Wanger, would you consider the lieutenant governor as a member of the house with respect to a 2/3 vote for either immediate effect of legislation or to override a veto?

MR. WANGER: It would appear to me that under the present language, he would not be.

MR. G. E. BROWN: Then you would consider him a member as far as the 2/3 vote is concerned?

MR. WANGER: It depends on how you vote on this amendment.

MR. G. E. BROWN: I am saying your amendment would consider him a member, right?

MR. WANGER: No. It would give him the right only to vote in those cases where his vote would change the result.

MR. G. E. BROWN: I realize that—

MR. WANGER: And that is a very great restriction upon his right.

MR. G. E. BROWN: I realize that, Mr. Chairman and Mr. Wanger, but the point is with a 2/3 vote, of course, his vote would be a vote for the purposes of a 2/3 majority or a 2/3 vote to override a veto or for immediate effect of legislation. Now then, he would have an opportunity to vote at that time, which might preclude the having of a 2/3 vote. But in having this right to vote eventually, would you consider his vote as a vote for the purposes of determining a 2/3 majority then?

MR. WANGER: Only if that vote would change the result.

Mr. Chairman, Mr. Brown apparently does not grasp the fact that he could only vote when that vote could change the result. That is the only time.

MR. G. E. BROWN: Mr. Chairman, Mr. Wanger, I grasped it entirely. I am wondering if you are grasping this situation.

CHAIRMAN MILLARD: The question is on the Wanger amendment. Is everybody familiar with it? All in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Mrs. Judd offers the following amendment:

1. Amend page 2, line 8, after "may be" by striking out "delegated" and inserting "from time to time assigned"; so the language will read, "He shall perform such additional duties as may be from time to time assigned to him by the governor."

CHAIRMAN MILLARD: The Chair will recognize the proponent of the amendment, Mrs. Judd.

MRS. JUDD: Mr. Chairman, members of the committee, I thought that Delegate Cudlip expressed a rather valid fear of the possible significance of this word "delegate"; that the gubernatorial powers might be passed on to the lieutenant governor which the people intended should only be handled by the governor. It may be that Mr. Cudlip was satisfied with Mr. Martin's explanation and thinking that that explanation in the record would take care of it was enough, and perhaps it is. But I thought it might perhaps lessen litigation to clarify the language by expressing what I assume from some committee expressions is the real intent of the committee in the constitution.

I am not a lawyer, and if I misinterpret the legal significance of the verb "to delegate" this is perhaps merely a matter for style and drafting, and possibly Mr. Cudlip was satisfied because he knew he was in a position to handle it in style and drafting. But if the convention wants to express this intent by making the language somewhat more casual, they could do so perhaps by supporting this amendment.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, there is another amendment directed to this same point which is pending, and it may be that that would meet the question which Mrs. Judd and Mr. Cudlip had in mind. But I think it is about time for the committee to rise, and I am going to so move at this time. We can consider these matters after lunch.

CHAIRMAN MILLARD: The question is on the motion for the committee to rise. All those in favor say aye. Opposed, no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration a certain proposal of which the secretary will make a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 71;** has considered several amendments thereto; has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Are there any announcements?

SECRETARY CHASE: No announcements, Mr. President.

PRESIDENT NISBET: If not, the Chair will recognize Mr. Shanahan.

MR. SHANAHAN: Mr. President, I move that the convention now recess until 2:00 p.m. this afternoon.

PRESIDENT NISBET: The question is on the motion to recess. Those in favor will say aye. Opposed, no.

The motion prevails. We are recessed until 2:00 o'clock.

[Whereupon, at 11:35 o'clock a.m., the convention recessed; and, at 2:00 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Tubbs.

MR. TUBBS: Mr. President, a couple of weeks ago when we finished the judicial article, we were having some levity and some lightheartedness, and I wanted to get up and tell a story, but the man who was going to be the principal beneficiary of that story had left the convention hall and I changed by mind. But today he is here. So, if I may have the floor for a moment, I would like to tell it.

PRESIDENT NISBET: You may.

MR. TUBBS: And I want to assure Mr. Barthwell that he has learned a lot of law this winter, and as one of his instructors I feel quite honored that he has progressed so well in his studies.

There is a big law firm in New York that had one member as personnel director. One day a boy came in to talk to him about getting a job. And he said, "Why should I hire you?" And the boy said, "Well, I'm the best office boy in the United States." And the personnel man said, "Well, if you're that good, I'll hire you." So he put him to work. A week later he came in the door and the boy was going out with his few belongings under his arm, and he said, "What's the matter, Fred? Didn't you like the study of the law?"

"No. I'm sorry I learned it." (laughter)

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention now resolve itself into committee of the whole for the purpose of taking up matters on the **general orders** calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Millard. All in favor will say aye. Opposed, no.

The motion prevails. Mr. Millard.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MILLARD: The committee will be in order. The secretary will read.

SECRETARY CHASE: At the time the committee rose before lunch, there was under consideration the following amendment offered by Mrs. Judd to Committee Proposal 71:

[The amendment was again read by the secretary. For text, see above, page 1826.]

CHAIRMAN MILLARD: Mrs. Judd.

MRS. JUDD: Mr. Chairman, members of the committee, if I hadn't been so impatient and had waited just a few moments longer, I would have discovered that Mr. Cudlip had solved this problem. He has very graciously permitted me to bring it to you, so I would like to withdraw the amendment that I put in before lunch and offer instead the one that is on the secretary's desk.

CHAIRMAN MILLARD: If there is no objection, Mrs. Judd can withdraw the amendment that she introduced, and the secretary will read the substitute.

SECRETARY CHASE: Mrs. Judd now offers the following amendment:

1. Amend page 2, line 9, after "governor" by inserting "unless otherwise prohibited by this constitution or law"; so that the sentence will read, "He shall perform such additional duties as may be delegated to him by the governor unless otherwise prohibited by this constitution or law."

CHAIRMAN MILLARD: The Chair will recognize Mrs. Judd.

MRS. JUDD: It is my understanding that the fears over the meaning of the word "delegate"—that the governor might hand the lieutenant governor some very important jobs that we the people want the governor to keep to himself—are taken care of by keeping the word "delegate" but adding this phrase. And as I understand it, some of the things that would be prohibited in the constitution for him to delegate would be the matter of pardons, which was mentioned this morning.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, we had a chance to confer on this during the noon hour and to look over the language that is now proposed. I think it meets the objections that were raised, and I believe that in its present form it will prevent the governor from delegating any powers which the legislature clearly felt he ought not to have the authority to delegate. I think it is in satisfactory form.

CHAIRMAN MILLARD: The Chair will recognize Delegate Downs.

MR. DOWNS: Mr. Chairman, I wish to point out—and I had not thought this was really offered seriously—that we should see just what it will do. This means that we want a strong governor, so we are going to give him a helper. We are going to give him a lieutenant governor. And we are going to see he is on the same team. He is not only apt to be of the same political party; he is nominated by the convention where the governor has a vote and usually a fairly large voice, the gubernatorial candidate at least. Then after he is elected, the governor can then assign his helper, the lieutenant governor, tasks to do unless the legislature says that he can't do it.

That is a step backwards from the 1908 constitution. It is not a step forward. The 1908 constitution is silent on the matter of assignment of functions of the lieutenant governor. And I believe as a practical matter governors of both parties, when they have had lieutenant governors from the same party, have in many cases on a practical governmental operation asked those lieutenant governors to assist them in the operation of the executive branch of state government. Nobody, to my knowledge, has ever raised a question or objection to this.

With this provision we are further weakening the governor, because it would mean that the legislature could by law prohibit certain functions that the governor might otherwise want to assign the lieutenant governor. All I am suggesting to the committee is if we want to give the governor a helper in the constitutional office of the lieutenant governor, let's do that. I think the majority report, which the minority agrees with, does this rather specifically. If we don't want to do that, please let's hold our own and not go back behind 1908 so far as the strength of the chief executive office is concerned. Thank you.

CHAIRMAN MILLARD: The Chair recognizes Delegate Gust.

MR. GUST: Mr. Chairman, I have an amendment to this amendment on the secretary's desk which I would like him to read, please.

SECRETARY CHASE: Mr. Gust offers the following amendment to the amendment offered by Mrs. Judd:

1. Amend the amendment, after "constitution" by striking out "or law"; so that the language to be added would read, ". . . unless otherwise prohibited by this constitution."

CHAIRMAN MILLARD: The Chair recognizes Delegate Gust on his amendment.

MR. GUST: Mr. Chairman, members of the committee of the whole, I quite agree with Mr. Cudlip insofar as he refers to a prohibition specifically set forth in this constitution. However, I quite agree with Delegate Downs, and certainly the intent of this overall executive branch committee proposal was to strengthen the executive arm of our government. The lieutenant governor is the righthand man of the governor and is specifically empowered to carry out functions of the executive branch and not be a messenger boy for the legislature. Therefore, I don't think the legislature should have anything to say about the duties assigned to him or not assigned to him by the governor. So I would respectfully request that the last 2 words of the Cudlip amendment be stricken.

CHAIRMAN MILLARD: Mr. Faxon, we are on the Gust amendment now. Do you want to talk to that?

MR. FAXON: I have to talk specifically on that?

CHAIRMAN MILLARD: You have to talk on the Gust amendment now.

MR. FAXON: Not to the Judd amendment? I wanted to ask Mrs. Judd a question.

CHAIRMAN MILLARD: The Chair recognizes Delegate Hanna.

MR. W. F. HANNA: Mr. Chairman, I merely want to call Mrs. Judd's and Mrs. Cudlip's and the other delegates' attention to the fact that, to my knowledge, in this constitution we have not prohibited, and I have seen no proposals that would prohibit, the lieutenant governor from exercising any function. May I suggest that this language say "unless specifically assigned to the governor by this constitution," because we have assigned specific functions or duties to the governor himself, but I know of no place where we have prohibited, by this constitution, powers and functions to the lieutenant governor and it would seem that "unless otherwise prohibited by this constitution or law" or, as Mr. Gust now leaves it, actually it expresses nothing, because all we have done in this constitution is specifically give duties to the governor. I suggest different language.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Well, Mr. Chairman, I think the situation is this, if I could try to clarify it. The present proposal specifically gives the governor authority to delegate responsibilities to the lieutenant governor. He has never had that specific authority before. Insofar as the lieutenant governor has accepted any responsibilities from the governor, it has been simply a matter of good will or his willingness to help. But we wanted to make it clear that the governor had the authority to delegate such powers, and therefore we made this provision. We did not, however, intend that the governor **should**

be able to delegate every power which he has to the lieutenant governor or, in other words, to make a governor out of the lieutenant governor. And in general in the past the powers of the various administrative officials have derived from legislative enactment of one kind or another or from the constitution.

Of course, if the constitution restricts this, the governor couldn't do it. But insofar as legislative enactments are concerned, since these powers to do certain things by administrative officers flow from those powers, it seems reasonable to let the governor delegate any of those powers that come to him by law to the lieutenant governor unless the legislature feels that these are and should be nondelegable powers, and that is essentially what this does. If you don't have the law in there, you don't accomplish that result. So it seems to me the wording is correct and does what we wanted to do. It lets the governor delegate authority unless you get to some kind of authority which would be of such a major character that the legislature does not feel that this should be anywhere except in the governor's hands. I therefore approve the amendment and hope you will support it.

CHAIRMAN MILLARD: The Chair recognizes Mr. Cudlip.

MR. CUDLIP: Mr. Chairman and members, I agree fully with the analysis made by member Martin. The legislature can pass laws pertaining to the office of the chief executive if they are not unconstitutional, and if such laws direct certain functions to be performed only by the governor and not by him to be assigned, well and good. That could happen in numerous cases. And all these words "or by law" are intended to mean is just that. And of course it is obvious what the violation of the constitution means, because we don't want the governor to be assigning or delegating duties which by the constitution he, as chief executive of this state, is charged with.

CHAIRMAN MILLARD: The question is on the Gust amendment. Mr. Kuhn.

MR. KUHN: Mr. Chairman and members of the committee, I would agree with Delegate Gust 100 per cent that if we put in the "or law" we are going to do exactly what the committee of the whole decided not to do this morning, and that is let the legislature provide any duties for the lieutenant governor. Therefore, while I do not think this whole sentence is necessary, I am certainly against the "or law" and I do support the Gust amendment.

CHAIRMAN MILLARD: The question is on the Gust amendment to the Judd amendment. Will the secretary read it so we all know what we are voting for.

SECRETARY CHASE: The amendment is:

[The amendment was again read by the secretary. For text, see above, page 1827.]

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Mr. Chairman, very briefly, I agree with Mr. Gust's amendment and rise in support of it. I think the adoption of his amendment will assure that the governor really has the lieutenant governor as his executive constitutional assistant unless there are limitations provided by the constitution. I therefore urge support of Mr. Gust's amendment.

CHAIRMAN MILLARD: The question is on the Gust amendment to the Judd amendment. All in favor will say aye. Opposed, no.

The amendment is adopted.

DELEGATES: Division.

CHAIRMAN MILLARD: A division has been called for. Is there support? A sufficient number. The question is on the Gust amendment to the Judd amendment. All in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Gust, the yeas are 97; the nays are 24.

CHAIRMAN MILLARD: The amendment is adopted. The question now is on the Judd amendment, as amended. Mr. Boothby.

MR. BOOTHBY: Would the secretary please read the amendment as it now stands?

CHAIRMAN MILLARD: The secretary will read.

SECRETARY CHASE: The amendment as amended now reads:

1. Amend page 2, line 9, after "governor" by inserting "unless otherwise prohibited by this constitution"; so that the language in the last sentence of the first paragraph of section b will read, "He shall perform such additional duties as may be delegated to him by the governor unless otherwise prohibited by this constitution."

CHAIRMAN MILLARD: Mr. Hanna.

MR. W. F. HANNA: Mr. Chairman, I would like to address a question to Mrs. Judd, if I may, please.

CHAIRMAN MILLARD: If Mrs. Judd cares to answer.

MR. W. F. HANNA: Mrs. Judd, do you know of any proposal that we have passed or any proposal which we are going to consider which prohibits a power granted to the governor being delegated to the lieutenant governor?

MRS. JUDD: Mr. Chairman, Mr. Hanna, I am sorry I ever brought up the subject. (laughter) And I think if you want an answer, you'd better ask Mr. Cudlip.

CHAIRMAN MILLARD: Does Mr. Cudlip desire to answer it?

MR. CUDLIP: I would be happy to; thank you. This troublesome problem, you know, they have never grappled with in Washington because of the very things we are discussing, and the vice president gets these ad hoc assignments. But if we are going to have it in the constitution, it should be clear that the power vested in the governor—and we vest him with lots of power; we call him the chief executive officer of this state—shall not be delegated to anyone else, and if the language as it was originally submitted would stand, there is no reason at all why any future governor, if this constitution is adopted, could not delegate all or part of his authority.

All the amendment is intended to provide is as follows: that whereby our division of governmental powers and whereby this constitution is proposed, the chief executive has powers that only he should exercise. This morning I mentioned some of them—the pardons and paroles, militia calling out and so forth. Those are not delegable powers, and the reason is obvious. We didn't choose a lieutenant governor to have the governor that was chosen assign all or some of the powers to that gentleman, and that is the way I understand this matter.

CHAIRMAN MILLARD: The Chair recognizes the delegate from Detroit, Mr. Iverson.

MR. IVERSON: Mr. Chairman, I would like to direct a question to either Mrs. Judd or Mr. Cudlip.

CHAIRMAN MILLARD: Mr. Cudlip, if he wants to answer.

MR. CUDLIP: I will be glad to answer.

MR. IVERSON: Would the language presently in this amendment permit the governor to, even though he is sitting in his front office, assign practically any or all of his duties to the lieutenant governor?

MR. CUDLIP: Well, I said earlier this afternoon, before the Gust amendment was adopted, that the legislature of this state or any state can adopt laws regarding the governor's office if they are not in conflict with the constitution. For example, if such a law said that they would like to have him sit on the Michigan corporation and securities commission but did not wish that the lieutenant governor should sit, that would be a proper law because it doesn't conflict with the constitution. And that was the kind of a situation—and there are countless others that could be imagined—that was in mind when the words "or by law" were added, but that is out temporarily. Now we are simply talking about the fact that this chief executive cannot delegate to the lieutenant governor any of the duties which he has to discharge under the terms of the constitution, expressly or impliedly.

Does that answer your question, Mr. Iverson?

MR. IVERSON: I am not sure. Mr. Chairman, Mr. Cudlip, I assume then with "or law" being stricken from this amendment, you are satisfied we are not doing anything which

would permit the governor to assign any and all of his duties to a lieutenant governor, even though he is sitting in the front office?

MR. CUDLIP: I am satisfied myself that this language means that the governor may not delegate authority to the lieutenant governor if it conflicts with this proposed constitution. Any powers which we have given to him which he himself by virtue of his office—by the inherent nature of his office—is charged with performing, those aren't delegable. Otherwise we would have a situation where, in whole or in part, the chief executive could pass on to the lieutenant governor missions of various sorts and you wouldn't have a governor. You would have a lieutenant governor acting in behalf of a governor who made assignments.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I think we can throw a little more light on this particular provision as it now stands. As I understand it now, the governor could delegate anything that was not prohibited in the constitution. He could delegate any legislative power which was granted to him as of now without any prohibition in it at all. It does not seem to me, however, that this would prevent the legislature from passing legislation which gave the governor power but which said at the same time: the authority which we are now granting shall be nondelegable. I think this leaves the legislature that much leeway as to legislation which is passed in the future. I don't think that legislation previously passed is affected unless it were revised and repassed.

CHAIRMAN MILLARD: Delegate Wanger.

MR. WANGER: Mr. Chairman, I desire to ask Mr. Cudlip a question regarding this amendment.

CHAIRMAN MILLARD: Mr. Cudlip, if you care to answer.

MR. WANGER: Mr. Chairman, Mr. Cudlip, perhaps I misunderstand the various reasons behind the language here used, but as I understand them, would not your purpose in offering this amendment be better served by using the word "provided" in place of the word "prohibited"? The question has been raised, I believe, is there any place where we say expressly in the constitution that we prohibit the governor from assigning certain duties, and it was pointed out that we probably do not expressly say that. However, we do provide for certain powers to be exercised by the governor. And as I heard your explanation, I just wondered if the word "provided" might not clear up that point rather than the word "prohibited."

MR. CUDLIP: Well, I, in candor, must say that this is not my amendment, and Mrs. Judd said so herself. I was interested in the problem, and the words I had in mind were "not in derogation of this constitution or of law." Frankly, I didn't pay particular attention to the wording there because I didn't think Mr. Hanna's point was well taken in the way I view this whole proposal and its purpose, and I would have to look at that again.

I had an objective, as I stated this morning, and I think we have to accomplish it. The language that I would have used if I had proposed an amendment would have been a little different. But, generally speaking, I think the language is satisfactory. I think you should address your question, Mr. Wanger, to Mr. Hanna. He was concerned with some double looping there that didn't bother me.

MR. WANGER: Thank you, Mr. Cudlip. I misunderstood, I see, with regard to whose amendment was actually before us. If Mr. Hanna would care to comment on this suggestion of changing of the words, I will yield to him.

CHAIRMAN MILLARD: Do you desire to answer the question?

MR. W. F. HANNA: Mr. Chairman, will Mr. Wanger repeat his question?

MR. WANGER: The question is this: if it is desirable to adopt an amendment which says that the governor cannot delegate those powers which he is given in the constitution, would it not be clearer to substitute the word "provided" for the word "prohibited" in this amendment? I believe you raised the question along this line.

MR. W. F. HANNA: Mr. Chairman, Mr. Wanger, I have submitted an amendment which I hope will clarify the situation, the essence of which says that the governor may delegate powers to the lieutenant governor unless those powers are specifically vested in the governor by this constitution, so that the powers that we give to the governor—to wit, the power to appoint or the power to grant pardons; the power to make the budget; and so forth—are in the governor and he cannot delegate his constitutional duties; he can only delegate other duties that are nonconstitutional.

MR. WANGER: Thank you.

CHAIRMAN MILLARD: Garry Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee, it seems to me that part of the problem here is that we are using 2 words that are foreign to one another, at least in my interpretation, and that is we are speaking of delegating duties rather than assigning duties, and at the same time we are talking about delegating powers. We speak of delegating duties. I think that usually we speak of it as delegating authority and assigning duties. And by using these 2 terms in this way, we find that we are not only thinking of ministerial duties that do not constitute an exercise of gubernatorial authority, but we use the delegation of duties which makes us think we are delegating authority.

I think Mr. Hanna's amendment as he has described it will help in this regard, and very possibly we should move on to that. I would like to point out, however, that Mr. Downs earlier said that we were moving back beyond the 1908 constitution, and I would only direct the delegates' attention to section 1 of the executive department, which says, "They —" referring to the governor, lieutenant governor, the secretary of state, the state treasurer and so on—"shall keep their offices at the seat of government, superintend them in person and perform such duties as may be prescribed by law." This is not going backwards from the 1908 constitution.

CHAIRMAN MILLARD: Delegate Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, Mr. Brown called attention to the particular point that I wanted to make that under the wording of the first part of section b, to my mind there is a considerable difference between assigning additional duties and assigning powers provided for in the constitution. I don't have any fear of the section as it now stands. I think there is no need for the proposed amendment because I think it in no way prohibits the legislature from enacting legislation which will clarify those duties and even limit the duties.

CHAIRMAN MILLARD: Delegate Gust.

MR. GUST: Mr. Chairman and fellow delegates, I think Mr. Hoxie covered just about everything in my remarks. I would only say that I too would recommend that the Judd amendment be voted down. If there still is any question in anybody's mind relative to this problem, I think the Hanna amendment will certainly clarify it.

CHAIRMAN MILLARD: The secretary will read.

SERCETARY CHASE: May the secretary ask, Mr. Hanna, do you propose to add this language to the amendment offered by Mrs. Judd, or to strike out the language offered by her and insert this?

[Whereupon, consultation took place between Secretary Chase and Mr. W. F. Hanna.]

CHAIRMAN MILLARD: The secretary will read.

SECRETARY CHASE: The substitute amendment offered by Mr. W. F. Hanna is:

1. Amend page 2, line 8, after "him" by striking out "by the governor.", and inserting "except powers specifically vested in the governor by this constitution."; so that the sentence would then read, "He shall perform such additional duties as may be delegated to him except duties specifically vested in the governor by this constitution."

CHAIRMAN MILLARD: The Chair will recognize Delegate Hanna.

MR. W. F. HANNA: Mr. Chairman, because of the confusion—

CHAIRMAN MILLARD: Just a moment.

MR. W. F. HANNA: Mr. Chairman, I will solve your problem by withdrawing it, because that language doesn't accomplish the purpose intended.

CHAIRMAN MILLARD: Mr. Hanna withdraws his amendment. We are still on the Judd amendment. The question is on the Judd amendment. Mr. Martin.

MR. MARTIN: Mr. Chairman, I think the Judd amendment, although I believe it ought to have "by law" attached to it, in its present form is satisfactory and does not completely prevent the legislature from limiting some power if it decides that in giving that power it should have a limitation on it. I think it can be properly adopted.

CHAIRMAN MILLARD: Mrs. Judd.

MRS. JUDD: I was going to withdraw it if it isn't too late. (laughter) I think the best thing to do is delete the whole sentence in the committee proposal and let it be handled on a very informal basis between the governor and lieutenant governor, but I have no such amendment in.

CHAIRMAN MILLARD: If there is no objection, the amendment will be withdrawn. The secretary will read.

SECRETARY CHASE: Mr. Hutchinson now offers the following amendment:

1. Amend page 2, line 8, after "may be" by striking out "delegated to him by the governor" and inserting "prescribed by law"; so that the language will then read, "He shall perform such additional duties as may be prescribed by law."

CHAIRMAN MILLARD: Delegate Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I offer this amendment at this time because this morning, when this matter was determined, we didn't have this precise matter before us. We were debating on the Brake amendment which had "the governor" in there and "by law" and there was a considerable amount of feeling that there would be 2 masters there. Some of the delegates afterwards came around to me and indicated that if it had read the way I now offer it, they might have supported it.

I make this argument in support of this amendment, ladies and gentlemen of the committee. To begin with, let us assume that the present language stays in the constitution, "He shall perform such additional duties as may be delegated to him by the governor." Let's consider the problem that a citizen of the state would have to determine the legality of an act performed by the lieutenant governor under that language. At the present time every official of the government has to have behind him the authority to act, and that authority to act has to be found either in the constitution directly or in a constitutional statute, so that the citizen who wants to know whether this imposition against him is or is not legal can ascertain it by looking to the constitution or to the statutes.

This says that the lieutenant governor shall perform such additional duties as may be delegated to him by the governor. And at one time we were talking about language which would say: be assigned to him from time to time by the governor.

How is the citizen of Michigan to know whether or not at the time the lieutenant governor undertook to act he did or did not have such authority? He couldn't find it in the statutes; he couldn't find it in the constitution. That, for one reason, is why I think that, in fairness to our system of law, we should adopt the language which I now propose.

Another point I wish to make is this: there seems to be some fear here lest the legislature by law would impose upon the lieutenant governor some duties which would be embarrassing to him in his relationships with the governor or something of that sort, and I remind you of the fact that if you provide in the constitution that the lieutenant governor's duties shall be as prescribed by law, that means that the legislature has to pass an act empowering the lieutenant governor to do thus and so, but that act will not become the law unless the governor approves it except in extremely rare cases, which isn't very likely because it is almost impossible to override the veto of a governor of Michigan. Consequently, the situation is that the lieutenant governor will never have cast upon him duties which are not agreeable to him and the governor.

And if you keep in mind the fact that this governor and lieutenant governor are going to be elected together by a single vote just like the president and vice president of the United States, it follows that the relationships between the governor and the lieutenant governor will be very close, and I cannot believe the governor would approve an act of the legislature imposing on the lieutenant governor some duties conceived to be embarrassing either to himself or to the governor, so I think you have the protection there. But, on the other hand, I revert back to my first point: that the acts of every official of the government must be found in a statute or in the constitution itself, the authority for the specific act that is done, and the place to find it is in the constitution or in the statutes.

I don't know how it is envisioned that the governor would delegate powers or duties unless it should be by some kind of an executive order, but those executive orders are not, at least in Michigan, practiced. They are not law, something foreign to our usage and something which presumably could be delegated today and taken away tomorrow, leaving it in considerable confusion. I think I agree with Mrs. Judd. The best solution to this problem would be to let it revert to an informal basis. But if we should adopt the amendment that I now propose, we will be carrying forward the same system in effect that we have had since 1908 because, as another delegate read on the floor—I think it was Mr. Garry Brown who read from the present constitution, pointing out that the several officers, including the lieutenant governor, shall perform such duties as may be prescribed by law.

The fact that the legislature has never found very much work for the lieutenant governor to do is not the fault of the legislature, but it is something kind of troublesome throughout our whole history. Nobody much has ever been able to figure out what to do with either the vice president or the lieutenant governor. They are an officer in waiting, so to speak, and such things as the governor and the legislature could agree upon could happily be placed in the hands of the lieutenant governor, but I assure you that the lieutenant governor will never do anything that the governor doesn't want him to do, because the governor is not going to approve a law that would vest that responsibility in him. And I think that a lot of our trouble, both in the United States' history and in the history of Michigan, as between the governor and lieutenant governor arises from the fact that the relationship between the 2 officers doesn't necessarily lend to a great deal of intimacy. The governor, understandably, doesn't want another officer, a lieutenant governor, who is just a heartbeat away from that job, building his own self up in opposition to the glory of the governor if the governor himself has ambitions to succeed himself. This is a problem which we have been plagued with in all of our history and it is not going to be solved by language like this in the constitution. On the other hand, I do think that if we have to have something in the constitution on the subject, we might just as well frankly recognize that the only solution to it must lie in law. For that reason, I offer this amendment.

CHAIRMAN MILLARD: Delegate Karn.

MR. KARN: Mr. Chairman, members of the committee, I certainly am a babe in the woods attempting to comment on what Delegate Hutchinson has just said, a man with his experience and ability in the legislature. However, I just want to say this: the committee on executive branch gave a great deal of thought to this particular part of the section, and there was a great deal of discussion as to whether or not we should continue this position of lieutenant governor or whether to do away with the job entirely. It was decided, however, to continue the lieutenant governor in the constitution. The next question was, how could he be given duties that would justify his position and at the same time relieve the governor of some of his duties?

It is my understanding—and Mr. Hutchinson mentioned it—that the legislature has always had the right to delegate additional duties to the lieutenant governor, but it has never been done, and the fear of the members of the committee—or the majority of them at least—was that it never would be done unless something specific was added to the constitution. There-

fore, in my opinion, I think that the sentence in here—it may not be legal, and if it isn't, it would have to be cured, but I do believe that the governor should have some power, some right to delegate duties to the lieutenant governor to really make a job out of it instead of having him have one duty only, and that is presiding over the senate.

CHAIRMAN MILLARD: Delegate Gust.

MR. GUST: Mr. Chairman and members of the committee, Mr. Hutchinson spoke the truth when he said his amendment will put it right back where it was, and that is precisely what we were trying to obviate in the committee. The lieutenant governor has been nothing but an errand boy in the past and we at one time thought about either eliminating this office or giving it sufficient structure so that it would have meaning. I think the committee proposal will do just this and Mr. Hutchinson's amendment will do just what he said it will do: it will put it back exactly where it was, and that is what we were trying to get away from. Obviously with the Hutchinson amendment, the lieutenant governor will now be completely at the mercy of the legislature, and it will draft such powers in an act as it sees fit to give the lieutenant governor. Instead of having the lieutenant governor the right arm of the governor, he will be the errand boy for the legislature.

The governor or lieutenant governor cannot control in a positive way what kind of a bill will come out of the legislature. Sure, the governor won't sign a bill that he thinks does not give sufficient powers to the lieutenant governor in a "prescribed by law" bill, but he has no way to initiate the positive things that he might want in there and no assurance that he can get sufficient support in order to pass them. I say to you that our committee on executive branch gave considerable thought and listened to much discussion on this matter. I urge you to vote no on the Hutchinson amendment and adopt the committee proposal as submitted.

CHAIRMAN MILLARD: Delegate Tubbs.

MR. TUBBS: Mr. Chairman, I had a substitute to the Judd amendment. I wonder if I can amend my substitute to make it a substitute to the Hutchinson amendment. It seems to me that we are quibbling over who is to give the lieutenant governor power. I say just leave it neutral and let the chips fall where they may, and that is what I tried to accomplish in my substitute.

CHAIRMAN MILLARD: We will consider first the Hutchinson amendment and then your amendment. Delegate Downs.

MR. DOWNS: Mr. Chairman and delegates, I believe that Delegate Garry Brown very properly pointed out that the present constitution in article VI, section 1, says, referring to the lieutenant governor, that he shall perform such duties as may be prescribed by law. And section 19 says, "The lieutenant governor shall be president of the senate."

Now, as I understand it, the intent of the committee on executive branch was to change this so that the lieutenant governor would be the executive aide, really, a constitutional one, of the governor. And I think perhaps we are making mountains out of molehills. I may not see all the implications, but as I visualize this, we would want a situation where the governor—who often has the problem that he can't physically be 2 places at once—would like, on an immediate basis, to assign the lieutenant governor to represent himself or the state. I can think of, for example, a situation where the governor might not be able, because of other state commitments, to go out of the state. There might be a governors' conference, a conference of state officials someplace else in the United States where he would want temporarily to assign the lieutenant governor to represent both his office and the state of Michigan there. I would hope this could be done without the need of adopting legislation each time. I think if we make it clear this can be done, it might be satisfactory to have no constitutional reference to it.

I can also see the possibility that if we combine the state departments into 20—and I am not trying to anticipate or get off the subject, but I think, Mr. Chairman, it is related—if the governor has particular administrative problems or new programs starting, he might want to call on a lieutenant governor, because of his past experience, to help temporarily with some type of administrative representation of the governor with that particular developing branch of the executive branch of government. And I say this trying to look ahead 50 years where we can see changes in the executive structure take place as did in the past 50 years.

I believe Mr. Karn pointed out, if I understood him correctly, the thinking that there should either not be a lieutenant governor or, if there is one, give him the responsibility to work and represent the governor. I think by having the lieutenant governor responsible to the governor and assignable by him, that he could be of assistance in the executive branch of government. I say this in no way to limit the power of the legislature to have the technical and professional help it needs, but I think the legislature would be strengthened by assigning people of its own choosing in many cases rather than somebody that had been elected as lieutenant governor running on a ticket with the governor and presumably dedicated to the same governmental program when they did run together. I therefore urge defeat of the amendment and support of the majority and minority reports which on this item are the same.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, we seem to have gone round and round on this and perhaps spent more time on it than it warrants. The committee is opposed to Mr. Hutchinson's amendment because it does exactly the opposite of what the committee was trying to do. But I believe Mr. Chase has on his desk an amendment proposed by Mr. Brown and Mr. Norris, and I wondered if he could read that and see if the differences in point of view can't be compromised by that amendment. I wonder if he would read that.

CHAIRMAN MILLARD: The secretary will read.

SECRETARY CHASE: Messrs. G. E. Brown and Norris have filed the following amendment for consideration:

1. Amend page 2, line 8, after "may be" by striking out "delegated" and inserting "assigned"; and in line 9, after "governor" by inserting "and shall have such additional authority as shall be prescribed by law"; so that the sentence would then read, "He shall perform such additional duties as may be assigned to him by the governor and shall have such additional authority as shall be prescribed by law."

MR. MARTIN: Mr. Chairman, that is not the amendment we are discussing, of course, but apparently what we have is not satisfactory and what Mr. Hutchinson has, I am sure, is not satisfactory to the committee. I wonder if he would be willing to accept an amendment of this kind.

CHAIRMAN MILLARD: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I understand the intent of the amendment which has just been read to mean that the authority by which the lieutenant governor could do anything would be based in law and that such little administrative duties as the governor might dream up for him to do from time to time could be directly delegated to him by the governor. I can only imagine, however, that in the performance of such duties that would be directly delegated, he would have to act in the name of the governor. He couldn't act in the name of himself, because there would be no authority in law for his so doing.

MR. MARTIN: Mr. Chairman, Mr. Hutchinson, isn't that really what he does now when he is asked to, say, head up a study commission or perform some ceremonial functions and so on? He acts as a representative of the governor on matters of that kind.

MR. HUTCHINSON: Yes, I think he does. But that isn't the kind of legal activity that I envisioned was in the committee's mind. I supposed that the committee had in mind delegating to the lieutenant governor something that would actually have some power and not just a matter of going around and cutting ribbons and so on. If that is all that is necessary, I don't know why you have to write that in the constitution even.

CHAIRMAN MILLARD: Evidently the 2 amendments cannot be joined. We are still on the Hutchinson amendment. Mr. Shackleton.

MR. SHACKLETON: Mr. Chairman, delegates, there was one point brought up in the committee on executive branch which I think has not been mentioned. Mr. Downs came very close to it when he mentioned condensing the departments down to 20. The committee was a bit fearful that if the departments are condensed down to 20, it might be the intent of the legislature to name the lieutenant governor as head of one of these departments. That could result in making it practically impossible for him to do the other duty which has been assigned to him, that of presiding over the senate. As Mr. Downs pointed out, it could very well be that the governor might want to use the lieutenant governor in the reorganization of the government in reducing down to the 20 departments. The thought was to have the lieutenant governor an assistant governor to assist him, not to assist the legislature.

CHAIRMAN MILLARD: Mr. Garry Brown, on the Hutchinson amendment.

MR. G. E. BROWN: Mr. Chairman, I would merely say that which Mr. Hutchinson didn't say, and that is that I think that his amendment does not do the same thing that the Brown-Norris amendment does. I think that I must again reiterate that we should distinguish between those functions which are duties and those functions which are an exercise of executive authority.

Now, in the case of duties, which does not involve the exercise of executive authority, the governor should be able to delegate those things, those things a governor would do which would be in the nature of a duty which doesn't involve the exercise of executive authority. In those areas which would involve an exercise of the executive authority, these things should be prescribed by law. Whether the law may say that the governor may delegate these things or specifically grant them to the lieutenant governor is unimportant, because this will be provided in the law, but when it is an exercise of executive authority, it should be prescribed by law. When it is merely the doing of a duty that doesn't involve the exercise of executive authority, it should be able to be delegated by the governor without specific grant in a law.

CHAIRMAN MILLARD: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I am quite disturbed and a little bit amazed at the attitude apparent on the floor that crops up now and again and all the time, in fact, with regard to a distrust and a fear of the legislature. Some delegates apparently have it in mind that if the constitution said that the lieutenant governor could perform such duties as may be prescribed by law, that the legislature would expect the lieutenant governor to be an errand boy of the legislature. Well now, that isn't true at all. As a matter of fact, if anybody could ever have devised something that the lieutenant governor might do, I can assure you that, for the most part, the senate would be very happy to have him be doing it.

This constitutional duty of the lieutenant governor to preside over the senate is nothing. He comes in there and calls the senate to order and goes down through the order of business and turns the senate over to a chairman of the committee of the whole, and there the senate works all day, just like we would. And at the end of the session, if the lieutenant governor is around, he comes back to close the session, and if he isn't around, the president pro tempore of the senate does. This task of presiding over the senate is not very time consuming and certainly is not a full time job. With regard to these other things that the lieutenant governor might be doing, I submit to you that I don't recall any governor that asked the legislature to assign to the lieutenant governor some powers, and I can't believe—

CHAIRMAN MILLARD: Will the committee be in order so we can listen to the delegate.

MR. HUTCHINSON: —and I can't believe if that would happen, that the legislature would deny the request. Certainly the legislature considers the lieutenant governor as an officer in the executive branch. The lieutenant governor is not considered any officer in the legislative branch of government, so I don't see why we should treat the lieutenant governor any different than we treat the other executive officers. The other officers in the executive branch of government derive most of their functions out of statutes. The governor himself does, the secretary of state, the auditor general, the attorney general, the treasurer, the superintendent of public instruction, the state highway commissioner and all of the other departments and heads of departments appointed. They all find their powers to perform right in statutes. And why you should be so fearful of the legislature that you wouldn't allow the legislature to prescribe the functions of the lieutenant governor just amazes me. I can't understand the justification for this great fear and this great hate and this great distrust of the legislature.

I hope that this convention will realize that its function here is to build a strong legislature as well as to build a strong governor. And you must remember that in spite of the fact that we have 3 branches of government, they are not operating completely independently of each other and in a vacuum as regards each other. Our whole governmental system depends upon their getting along with each other. So I cannot understand why you are so opposed to the idea that if the legislature is competent to define the duties of other officials, it is not equally competent to define the duties of the lieutenant governor. And you say: well, but they never have. You charge them with no action. But I submit to you that their nonaction comes about from the fact that nobody ever had any idea as to what the lieutenant governor should do, and that includes the lieutenant governors themselves. If any lieutenant governor had had any idea, I dare say, of what he might be doing, and if he got the support of the governor in the project, you might have been amazed at the rapidity with which the legislature would have authorized it.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Delegate Lesinski.

MR. LESINSKI: Mr. Chairman, speaking on the Hutchinson amendment, I would like to state perhaps it could be covered in section c of this proposal, because it has reference to a deletion of the last sentence of section 1 of the present constitution. And in the present constitution there is reference to the governor, lieutenant governor, secretary of state and state treasurer, and it states that they shall perform, in person, such duties as may be prescribed by law. Now, this last sentence was deleted, and it is taken up in section c, so possibly this amendment can be taken care of in section c.

CHAIRMAN MILLARD: The question is on the Hutchinson amendment. All in favor will say aye. Opposed, no. The Chair is in doubt. The question is on the Hutchinson amendment. All in favor will vote aye, and those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the amendment offered by Mr. Hutchinson, the yeas are 32; the nays are 82.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Mr. Tubbs offers an amendment:

1. Amend page 2, line 8, after "duties" by striking out the balance of the sentence and inserting "within the executive department as may be assigned to him."; so that the language will then read, "He shall perform such additional duties within the executive department as may be assigned to him."

CHAIRMAN MILLARD: The Chair recognizes the proponent, Delegate Tubbs.

MR. TUBBS: Mr. Chairman, whether we have a strong legislature or a weak legislature is immaterial to me and I think should be immaterial in this constitution. Rather than quibble over who gives him these duties to do, why not leave it in the neutral. Whoever assigns the duties to him, if it is within the executive department, he will do them. But I think it should be limited to the executive department, and maybe the governor will assign the duties to him and maybe the legislature will.

In answer to a statement made by Mr. Hutchinson a moment ago, I suggest that strong legislatures are born and not made.

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: Mr. Chairman, I have a substitute on the secretary's desk, if he would read it.

SECRETARY CHASE: Mr. Faxon has offered the following substitute for the amendment offered by Mr. Tubbs:

1. Amend page 2, line 8, after "may be" by striking out "delegated" and inserting "from time to time assigned"; so that the language would read, "He shall perform such additional duties as may be from time to time assigned to him by the governor."

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: Mr. Chairman, fellow committee members, this is the original Judd amendment that was introduced this morning. Unfortunately it was withdrawn, because I had intended to support this. I think the feeling of the committee on executive branch has been made clear that they want this to be lodged with the governor, and the quibbling that we have had to some extent has been over the word "delegating" the authority. And I too have had some qualms over the use of "delegating" because traditionally when we talk about delegating, we are talking about either authority or powers. We talk about delegation of powers in our national government, and I don't think this is the intent. I think from what we have been able to find from the committee, we have found that they really mean the assignment of duties, and I think "the assignment of duties from time to time" clearly leaves this with the governor, as seems to have been the intent of the committee, and still it doesn't appear that the governor would be giving up any of those powers which are delegated to him by the constitution. So for these reasons, in order to try to get through with this section and still retain the meaning that the committee had in mind, I would urge your favorable consideration.

CHAIRMAN MILLARD: Delegate Durst.

MR. DURST: Mr. Chairman and members of the committee, when this matter first came up this morning and Mr. Cudlip raised the question of the word "delegate," I talked to him afterwards about the possibility of just changing it in style and drafting since this is really what the committee meant, to use the word probably in the sense of "assigned" rather than "delegate" which seems to have caused this trouble here all afternoon. On that basis I would suggest that we approve this amendment and move on. I think we have defeated decisively on 2 occasions the idea of giving the legislature the power of assigning duties to the lieutenant governor, and if this word will ease some of the dissension that exists here, I think we should approve it and move on to the next item.

CHAIRMAN MILLARD: Delegate Gust.

MR. GUST: Well, I agree with Ted Durst, and I would like to say Delegate Faxon is absolutely right. We intended in the executive branch committee that only the governor would have the right to delegate or assign these powers. Now, I again agree with Delegate Durst that we probably have spent practically a whole afternoon on something that might have been cleared up in style and drafting. I have no objection to the word "assigned" as against "delegated" but I would like to ask a question through the Chair to Delegate Faxon. I am somewhat disturbed over this "from time to time" language. If you are going to assign to him, you assign to him or delegate; but why "from time to time?"

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: Mr. Chairman, Mr. Gust, this is the same question which Delegate Hoxie has been asking me here, and since Mrs. Judd isn't going to speak with regard to this, I would just as soon take out "from time to time" and leave it "assigned," since it is "may be" and it seems permissive enough. The idea I had in mind regarding "from time to time" frankly was that this would be something that could be taken and given back and there would be no permanent assignments when you have this kind of language, but if you feel that the "time to time" is confusing, I would certainly withdraw that and just keep the word "assigned" in.

MR. GUST: Alright. Well, if you are going to withdraw it, then the amendment will now read, as I understand it, Mr. Chairman and Mr. Secretary, that the Faxon amendment will delete the word "delegate" and substitute the word "assign."

SECRETARY CHASE: That is correct.

MR. GUST: Would you read it now as amended?

SECRETARY CHASE: The substitute amendment, as revised by Mr. Faxon, now reads:

1. Amend page 2, line 8, after "may be" by striking out "delegated" and inserting "assigned"; so the language will read, "He shall perform such additional duties as may be assigned to him by the governor."

MR. GUST: In its present form, I would support the Faxon amendment.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Mr. Chairman, I think it is a pity that we are wasting as much time on this as we have, and I don't know how we can solve the problem. There is difficulty with the word "delegate" no doubt. It is a very unfortunate word. I don't believe, however, that the word "assigned" solves the problem. I will explain why in a moment. And my thought is that we should not waste time handling this over and over and over again on the floor, and that we should postpone the ultimate decision to the end of the article. It won't do any harm, and we would have overnight to solve the problem.

The reason I think that the word "assigned" doesn't do the trick is that in some parts of the law, the word "assign" is broader than the word "delegate." For example, in contract law, the word "delegate" is used in a narrower sense than "assigned." They say, for example, that you can assign your rights but you cannot assign your duties. That is straightforward contract principle. You cannot assign your duties; you can only delegate them. That is to say you can only delegate the performance. That being the case, the words "assigned" and "delegate" both have legal significance, and by bad luck it happens that, at least in one part of the law, their significance is just the reverse of what we intended here. It seems to me it would be a pity to waste time trying to solve the problem.

Mr. Chairman, am I in order to move that we postpone the consideration of this paragraph until the end of the section?

CHAIRMAN MILLARD: You can so move.

MR. NORD: Well, I would so move.

CHAIRMAN MILLARD: There has been a motion by Dr. Nord that further consideration of paragraph 1 of section b be put at the end of Committee Proposal 71. All in favor will say aye. Opposed, no.

The motion does not prevail. Mr. Tubbs.

MR. TUBBS: Mr. Chairman, I too think we have spent much too much time on this. I think, however, that the duties which he is going to do should be within the executive department, and I think my amendment without any subsequent amendment will do exactly what everyone wants to do, including the committee.

CHAIRMAN MILLARD: The question is on the Faxon substitute to the Tubbs amendment. The secretary will read it.

SECRETARY CHASE: The amendment offered by Mr. Tubbs and then the substitute by Mr. Faxon:

[The amendment and the substitute amendment were again read by the secretary. For text of amendment, see above, page 1832; for text of substitute amendment, see above.]

CHAIRMAN MILLARD: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I would like to ask Mr. Tubbs a question, just so I can get clarified in my own mind at least what he has in mind.

CHAIRMAN MILLARD: Mr. Tubbs, if you care to answer.

MR. HUTCHINSON: Mr. Tubbs, I would like to ask, through the Chair, when you refer to "within the executive department," do you have in mind the executive branch of government or do you have in mind the governor's office?

MR. TUBBS: I have in mind the executive branch of government.

MR. HUTCHINSON: The entire executive branch of the government.

MR. TUBBS: I look on the lieutenant governor as a vice executive.

MR. HUTCHINSON: All right, sir. That clarifies that part of it. Now, I would like to further ask you this question: whether, in your opinion, the governor would have any power, even if he wanted to, to delegate to the lieutenant governor any power either in the legislative or judicial branches.

MR. TUBBS: I think he has the power to delegate duties within the executive department.

MR. HUTCHINSON: Clearly; but he doesn't have any power to delegate duties within any other department.

MR. TUBBS: I don't think he has any power over any other department, period.

MR. HUTCHINSON: Alright. Then why is it necessary to spell out "within the executive department," sir?

MR. TUBBS: It perhaps is not, but it is answering some of the objections you made to the original amendment a while ago.

MR. HUTCHINSON: I don't recall that it does, but thank you. I think I have an answer from you. (laughter)

CHAIRMAN MILLARD: Delegate Lesinski.

MR. LESINSKI: Mr. Chairman, speaking on the Tubbs amendment, I see a flaw. Who is going to do the assigning? It does not state that.

CHAIRMAN MILLARD: Are you addressing the question to anybody, Mr. Lesinski?

MR. LESINSKI: To Mr. Tubbs.

CHAIRMAN MILLARD: Mr. Tubbs, do you care to answer?

MR. TUBBS: Whoever has the constitutional authority to do it.

MR. LESINSKI: Where does it give that constitutional authority, Mr. Chairman, Mr. Tubbs?

MR. TUBBS: I think there are lots of implied things in this constitution which give authority. I believe, with Mr. Hutchinson, that the legislature can delegate to the executive department certain duties.

CHAIRMAN MILLARD: Mr. Woolfenden.

MR. WOOLFENDEN: Point of order. I think the question and the answer are out of order. We have the Faxon substitute before us.

CHAIRMAN MILLARD: You are correct. We are on the Faxon substitute. The question is on the Faxon substitute for the Tubbs amendment to paragraph 1 of section b. All in favor will say aye. Opposed, no. The Chair is in doubt. All in favor of the Faxon substitute will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the Faxon substitute, the yeas are 50; the nays are 52.

CHAIRMAN MILLARD: The amendment is not adopted. We are now voting on the Tubbs amendment. Mr. Gust.

MR. GUST: I just want to briefly state that this is coming through the back door; that it has already been voted on twice today. We have turned down that portion of the Cudlip amendment which would allow what Mr. Tubbs wants. We turned the Hutchinson amendment down, and now I urge you to turn down the Tubbs amendment and we will have it back where it ought to be.

CHAIRMAN MILLARD: The question is on the Tubbs amendment. Mr. Martin.

MR. MARTIN: Mr. Chairman, just speaking for myself, because I haven't had a chance to consult with the committee, I don't think that this amendment, without any indication as to who may assign these duties to him, is a satisfactory amendment. I think if we are going to assign any duties, we'd better know who is going to assign them. For that reason, I am going to vote against the amendment.

CHAIRMAN MILLARD: The question is on the Tubbs amendment. All in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Messrs. G. E. Brown and Norris offer the following amendment:

1. Amend page 2, line 8, after "may be" by striking out "delegated" and inserting "assigned"; and in line 9, after "governor" by inserting "and shall have such additional authority as shall be prescribed by law"; so that the language will read, "He shall perform such additional duties as may be assigned to him by the governor and shall have such additional authority as shall be prescribed by law."

CHAIRMAN MILLARD: The Chair recognizes Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, I spoke on this before as to the merits of it, distinguished between those duties which the governor should have the right to assign and that authority which should be prescribed by law. This is the provision that we have always had relative to what executive authority may be exercised by the lieutenant governor, but as to those matters which are peculiarly within the governor's power that he may assign if he wants to that doesn't involve an exercise of executive authority, the governor should be able to do it without specific implementation by the legislature.

CHAIRMAN MILLARD: Delegate Durst.

MR. FAXON: Point of order.

CHAIRMAN MILLARD: What is it?

MR. FAXON: Mr. Chairman, has this question in part been already acted upon by the committee of the whole? Haven't these parts already been acted upon?

CHAIRMAN MILLARD: It probably has in part, but not completely. The Chair thinks it is perfectly proper.

MR. DURST: Mr. Chairman and members of the committee. I realize Mr. Brown claims he has something new here, and he claims that when he states "additional authority," this does not mean the legislature is assigning any duties. However, as far as I can see, it amounts to the same thing and would be to the same effect as the Hutchinson amendment and the Brake amendment which we have already defeated. It may be stated in different language, but it accomplishes the same thing, and I urge that we defeat the amendment.

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: I have nothing to say.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Well, Mr. Chairman, we have gone round and round on this and it seems to me we need to resolve it. The committee is committed to the proposition that the legislature should not have any right to assign any authority to the lieutenant governor. That is the position of the committee, and I fully respect it.

However, at this stage I have to express my own personal opinion on this, and that is that there is not the slightest danger of the legislature assigning to the lieutenant governor anything that would in any way cramp his style or get him into doing anything that he shouldn't be doing. They have had this authority for years and years and years and they have never assigned him anything that would do any harm. Now, I realize this is not the position of the committee. I am just speaking from my own experience in this picture, and I can't see for the life of me any difficulty that anybody is going to get into from having a right to assign some responsibilities here, so I am going to vote for the Brown-Norris amendment.

CHAIRMAN MILLARD: Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee, I think it should be said, in answer to what Mr. Durst had to say, that by innuendo, by inference, he has suggested that the legislature could chop away at the gubernatorial power by granting authority to the lieutenant governor. I would only remind the members of the committee this would have to be done over a gubernatorial veto if this were the case and the governor didn't want it, which would require a 2/3 vote in the legislature, so I doubt very much if the legislature would at any time be able to, whether it wanted to or not, as Mr. Martin has said, chop away at the governor's power. At the same time I don't think that the legislature should have to say what duties that are within the authority of the governor to assign, ministerial duties and so on — that they shouldn't be able to be assigned by the governor without specific statutory implementation. So I would urge a yes vote on this amendment.

CHAIRMAN MILLARD: Mr. Brake.

MR. BRAKE: I would like to ask Mr. Martin a question, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Martin, do you care to answer?

MR. BRAKE: When I suggested to you, Mr. Martin, that you were barring the lieutenant governor from the administrative board, you said that the governor could assign him to the administrative board.

MR. MARTIN: That is correct.

MR. BRAKE: I would like to ask you now if you think that the governor can make him a legal member of a statutory board so that his vote would be a legal vote on that board.

MR. MARTIN: Under this amendment, Mr. Brake?

MR. BRAKE: Under your committee proposal.

MR. MARTIN: I think I answered you this morning by saying that under the committee proposal, it would not be possible for the legislature to make him a member of the administrative board.

MR. BRAKE: That isn't what I asked you, Mr. Martin. Suppose that the governor assigns him to the administrative board. Will he be a legal member of that board so that his vote will count?

MR. MARTIN: Under the committee proposal, I think that would have been possible.

MR. BRAKE: I don't.

MR. MARTIN: I think under the Norris-Brown amendment, the legislature could give him responsibility on the administrative board. I see no reason why he shouldn't have that authority as a member of the administrative board, if there is going to be an administrative board.

Mr. Brake and I have differences of opinion as to whether the administrative board is an important and useful device in our state department. He thinks it is and I think it is not. But if there is going to be an administrative board, the lieutenant governor ought to be on it. It doesn't make a bit of difference whether he is assigned to that board by the legislature or by the governor.

CHAIRMAN MILLARD: Mr. Romney.

MR. ROMNEY: Mr. Chairman, I would just like to express this viewpoint for whatever it is worth: I think that if this language had been in the constitution in past years, it might well have encouraged the legislature to begin to build up the authority of the lieutenant governor versus the governor. It seems to me a very unwise thing to begin to insert language of this character that would encourage a division and broad dispersion of the executive responsibility, and for that reason I am opposed to the language.

CHAIRMAN MILLARD: Mr. Garry Brown.

MR. G. E. BROWN: I would like to direct a question to Mr. Romney, Mr. Chairman, through the Chair.

CHAIRMAN MILLARD: If Mr. Romney cares to answer.

MR. G. E. BROWN: Mr. Romney, do you think this could have been accomplished by the legislature if the governor did not agree with it? Do you think that a 2/3 vote could have been garnered in the 2 houses in order to accomplish this?

MR. ROMNEY: Well, I don't think that we should rely entirely upon the veto power of the governor. I think it is either sound or it is unsound, and I don't think it is sound. I think it is the wrong approach.

MR. G. E. BROWN: Well, I would only say I think your final conclusions are without any basis in reason.

CHAIRMAN MILLARD: The question is on the Brown-Norris amendment. All in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read.

MR. G. E. BROWN: Division.

CHAIRMAN MILLARD: A division has been called for. Is there support? A sufficient number. All in favor of the Brown-Norris amendment will vote aye, and those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Garry Brown and Norris, the yeas are 26; the nays are 81.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Miss Donnelly and Messrs. Boothby, Perras and Plank offer the following amendment:

1. Amend page 2, line 7, after "divison.", by striking out the balance of the paragraph.

CHAIRMAN MILLARD: The Chair will recognize Miss Donnelly.

MISS DONNELLY: As is obvious, Mr. Chairman and members of the committee, we had to get to this point. To me, the argument for I don't know how many hours has been what does this language in the committee proposal mean originally. We have spent hours trying to arrange it to make it right. What makes it right is apparently almost impossible for anybody to decide unless we were to write a complete statute on it. Everybody, I believe, doesn't want the lieutenant governor to veto a bill; doesn't want the lieutenant governor to pardon someone; doesn't want the lieutenant governor to act as the governor except at the time that he should act as the governor, when the governor is incapacitated or otherwise out of the state, dead or what have you. In other words, we have said when he should act as the governor. We are very fearful of what other power should be delegated, assigned or what have you. We are dealing in legal terms.

CHAIRMAN MILLARD: The committee will be in order.

MISS DONNELLY: The problem with our legal terms has been pointed out: what does "delegate" mean? What does "assign" mean? And we are confronted with a problem on which we all basically have a vague idea of what we want this to mean, what we want the constitution to say. We are not arriving at it, saying it, in any way that will satisfy us as to what it should be interpreted to mean.

I cannot see why there needs to be anything in this constitution to allow the lieutenant governor to take on certain tasks of ministerial activity that the governor may ask him to do. To have him go out of the state and represent the governor momentarily where he could not particularly bind the governor nor the state of Michigan, nobody objects to. We don't need it in the constitution to say it. I cannot see why we need anything in the constitution to say what the governor should let him do, provided the governor doesn't do what we don't want him to do.

Now, to have it handled the way we want it, we'd better write a complete legislative article. We are not here to do that task. We are here to put out broad general principles. People are fearful of what the legislature in their enactment would have the governor do, although the governor, we know, could veto it. This sentence has caused more disturbance than anybody thinks it should or wants it to. We need the lieutenant governor in the constitution for one reason, if none other; we have to know where the power goes when we do not have a governor, somebody in being, in mental capacity to act, physical capacity to act. We need this man. So to say he is a ridiculous thing to have in the constitution I don't think is true. We do need him. But to spend hours in worrying about what this sentence means or what it interprets is reason in my mind to show that the whole problem is one that we cannot settle here.

By setting it up that the legislature should do it offends many people. To have the governor be allowed to do things that we all feel is improper offends us. We can't settle it in this constitution. It can only be settled by a long legislative act, but not as a legislature because we don't want them to do the wrong thing either. We don't trust anybody. We don't trust each other. And by putting anything in, we are going to get into trouble. So I therefore think we should delete the whole thing and we won't have the difficulty. The governor can then still have the lieutenant governor aid him in his ministerial tasks, represent him when he wants him to, but not bind him. When the lieutenant governor is going to bind, he will act as the governor and we won't have any difficulty.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Mr. Chairman, this is the same solution that I arrived at independently of the sponsors of this amendment. It seems to me that, first of all, we really don't want a

delegation of duties in the sense that the lieutenant governor could act and bind the governor. What we do want — probably most of us, anyway — we do want the governor to make use of the lieutenant governor if he can and if he wishes to. It seems to me that by striking the sentence as proposed in this amendment we can accomplish that result the same way as is done in the federal constitution. The federal constitution, as I recall, says nothing about this, and yet the problem is solved adequately, informally. As I see it, striking the sentence, the governor would still be able to use the lieutenant governor to help him carry out duties but not to formally bind the governor. The governor could do that if he sees fit. On the other hand, if the lieutenant governor should not be willing to help the governor in these matters, it is true that if we leave the language out, then the lieutenant governor couldn't be forced to do it. But I question the advisability, in any event, of trying to force the lieutenant governor to help the governor.

In other words, as I see it, the informal solution of cooperation between governor and lieutenant governor is the best solution. They will be in the same party from now on. They will be elected on the same ticket from now on. Therefore, most likely they would be willing to cooperate informally. And since we can't find any legal way of requiring them to do so, why not leave it alone in an informal manner just like the federal constitution? I therefore support the amendment.

CHAIRMAN MILLARD: Delegate Woolfenden.

MR. WOOLFENDEN: Mr. Chairman and delegates, I rise in opposition to this amendment. The committee, after 4 months of study, less one day, reported to this convention its recommendation. Both the majority report of the committee and the minority report contain exactly the same langauge. Evidently there was unanimity of opinion on what it should be after 4 months of study. We have spent almost this entire day voting down suggested amendments to this language, not by a bare majority but by votes that have run from 3 to 1 to 4 to 1 against every amendment. It seems clearly evident to me that the overwhelming majority of the delegates present are in favor of the committee language, and I strongly recommend voting this amendment down and supporting the committee, and let's get on with our work.

CHAIRMAN MILLARD: Delegate Hutchinson.

MR. HUTCHINSON: Mr. Chairman, all I want to do is to say that I support this amendment, and on those very rare occasions when Mr. Nord and I can agree with each other, I am happy to be able to vote with him on this one. (laughter)

CHAIRMAN MILLARD: The question is on the Donnelly amendment. Donnelly, Boothby, Perras and Plank are all on the amendment.

DELEGATES: Division.

CHAIRMAN MILLARD: Is there support? There is. All those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Miss Donnelly and others, the yeas are 49; the nays are 57.

CHAIRMAN MILLARD: The amendment is not adopted. Are there any further amendments to the first paragraph?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN MILLARD: If there are no further amendments to the first paragraph of section b we will proceed to paragraph 2 and the secretary will read.

SECRETARY CHASE: Paragraph 2, section b:

[Paragraph 2 of section b, was read by the secretary. For text, see above, page 1766.]

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, the next paragraph is directly related to the paragraph which the secretary has just read, and I think it would be helpful to the convention if we could consider the 2 together. If there is no objection, I would appreciate the secretary reading the next paragraph and then considering the 2 paragraphs together.

CHAIRMAN MILLARD: If there is no objection, the second and third paragraphs of section b will be considered together. No objection? The secretary will read.

SECRETARY CHASE: The third paragraph reads as follows:

[Paragraph 3 of section b was read by the secretary. For text, see above, page 1766.]

CHAIRMAN MILLARD: The Chair will recognize Mr. Martin.

MR. MARTIN: Mr. Chairman, I am going to call on one of the members of our committee to explain this more in detail. I only want to say this: that this is one of the more important portions of this committee proposal and, in fact, of all of the committee proposals. It relates, as all of you know, to the problem which has existed in every state which has not reorganized its state government, arising out of the fact that in recent years, in the last 20 or 25 or 30 years, the number of state boards, agencies, departments, authorities, commissions and so on has increased and increased without any relation to any kind of logical structure. Some departments are headed by boards, some by commissions, some by individuals. Some are appointed in one way and some appointed in another, and there is absolutely no rhyme or reason to the structure of the state government.

Michigan is not unique in this. Even states such as Hawaii and Alaska, which have relatively recently organized and adopted new constitutions, had a great proliferation of such boards and agencies and commissions under their territorial governments, and they have found, and other states have found which have recently had constitutional conventions, that reorganization is a must if the governor is to have a structure of government such that he can maintain contact with the heads of his principal departments in such a way as to not only know what is going on but to be able to give some supervision and direction to the functioning of state government. As we all know, state government, just as with the federal government, has become increasingly complex, and it has become important — it has become absolutely necessary in as complex a situation as this, where as much money is being spent as is now being spent in the state of Michigan — that some improvement in the structure of government be brought about.

This is not a thing that can be done overnight. It can't be done by waving a wand. And for that reason the proposal does provide that the legislature shall have a 2 year period in which to accomplish this. If it is not accomplished at the end of that time, the governor has authority to do the job himself. The purpose and the expectation is that the legislature will set up whatever is necessary in the way of a study commission, will use whatever experience has been accumulated from prior study commissions and will engage in a 2 year project during which it will come up with a structure of government that will be sensible and will be as economical as possible, and will provide the kind of government we ought to have here in Michigan.

With that, I want to call on Mr. Bentley, chairman of this subcommittee, to go into this matter in somewhat greater detail, and then we will be glad to answer questions on it. He may wish to yield to members of his subcommittee.

MR. WOOLFENDEN: Mr. Chairman, may I make an inquiry of Mr. Martin at this point?

CHAIRMAN MILLARD: If he desires to answer.

MR. WOOLFENDEN: Through the Chair, Mr. Martin, I did not raise any objection to considering the 2 paragraphs together, but I note that the second paragraph as agreed to in the recommendation is identical in both the majority report and the minority report, and I am wondering, if there is unanimity of opinion as to the advisability of that second

paragraph, if it might not be more appropriate to separate the 2.

MR. MARTIN: Mr. Chairman, Mr. Woolfenden, it occurred to us that while the committee may be unanimous in its views, there may be amendments which would be proposed to be offered, and I think that the discussion will relate, naturally, because of the subject matter, to both paragraphs. I think it is better to have them both in front of us at the same time.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, in presenting the beginning of the proposals that came out of the subcommittee on executive reorganization from the committee on executive branch, I should like to mention briefly the members of the subcommittee and pay tribute to them for their fine work. This particular subcommittee consisted of Mr. Sterrett, Mr. Gust, Judge Shaffer, Miss Hart, Mrs. Elliott and our chairman, Mr. Martin, as an ex officio member.

Perhaps by way of best describing what we found, Mr. Chairman, when we began to plow into the present system of our state government, I could refer the members of the committee of the whole to a booklet which I believe most of them have received at one time or another. It is one of the state constitutional studies project, specifically number 4, entitled, The Structure of Administration. I think most delegates have had this booklet available to them at some time or another. And, interestingly enough, this particular study was prepared by Professor Ferrel Heady of the University of Michigan, who acted as a consultant to both the committee and the subcommittee in our work. Professor Heady's comments with respect to the existing situation in Michigan begin on page 35 of the booklet and continue through page 41. And I would like briefly to quote his opening paragraph as a graphic description of our present complex state government in Michigan:

> Michigan is a state with a high degree of administrative disintegration despite repeated efforts at reorganization and with constitutional provisions which would prevent a thoroughgoing reform by statutory action even assuming that the legislature and the governor could agree upon a program. In a description which is still substantially correct, Frank M. Landers and Howard D. Hamilton remarked in 1954: —

And at this point, Mr. Chairman, I interpolate with specific reference to the chart which is behind me, the chart which we have had on display in our committee room for several months now.

> The picture shows a jungle of 115 agencies —

and again I interpolate because the number is now 123, according to the citizens research council —

> headed by a mixture of elective and ex officio boards, full and part time commissions, elected officers and appointive department heads, including a plural executive device, the state administrative board. Authority and responsibility are dispersed, confused and obscure. The structure is incredibly and unnecessarily complex and, in terms of direct authority and administrative control, the governor is chief executive in name only.

As I say, Mr. Chairman, this perhaps may not be the best part of the chamber from which to view this chart, but I call the delegates' attention, particularly those on the opposite side of the room, to the fact that it is available here. I understand that possibly smaller editions of this — what I am pleased to term labyrinth of horrors or chamber of horrors — may be distributed to the members of the committee of the whole at large. But anyone who has seen this chart, I think, will easily and readily recognize that our state government certainly stands badly in need of reorganization.

As Chairman Martin has said, Mr. Chairman, we are proposing in these 2 paragraphs that, following the example of other recent state constitutional conventions, there be a specific mandate written into our proposed new constitution that the present 123 departments, divisions, agencies, offices, bureaus, et cetera, ad nauseam, be reduced to not more than 20. Some states have reduced in their recent constitutions even to a smaller number than that. New York, for example, in its constitutional convention reduced to 18. They have since added 2 more principal divisions by constitutional amendment, bringing it up to the number which we propose, the number of 20.

We have specifically avoided making some of the errors that were committed by other state constitutional conventions, and one was attempting to spell out within the constitution any specific titles for these 20 principal departments. We are leaving that matter entirely in the hands of the legislature and the governor, recognizing as we do that over the years, titles and functions of these various departments may change. The only constitutional requirement we are presenting is that at no time be there more than 20 with the exception of the offices of the governor, the lieutenant governor and the governing boards of our institutions of higher education.

We are giving the legislature the first 2 years following the adoption of the constitution to create by law the proposed reorganization of this hydraheaded monster into not more than 20 principal departments. Following the initial 2 year period, as Chairman Martin has said, Mr. Chairman, the governor would, if he so sees fit, have the privilege of, by executive order within the third year, further reorganization where he deemed it necessary or where he deemed initial action on the part of the legislature to have been lacking.

We are going to discuss in subsequent paragraphs, Mr. Chairman, the proposals for further reorganization after the 3 years following the adoption of this constitution. The 2 paragraphs which the secretary has read only pertain to the initial 2 years whereby the legislature will have the authority to reorganize by law the present 123 departments into not more than 20; the third year the governor will have the further authority, if the legislature has not acted, to further reorganize, still retaining the overall structure, into not more than 20 departments.

I believe, Mr. Chairman, that, briefly, explains the action of the subcommittee and the committee on executive branch in the second and third paragraphs of section b. Mr. Martin or I, I am sure, would be happy to answer questions. If there are no questions, then, of course, I would yield the floor. But first I would like to yield to any member specifically of my subcommittee, Mr. Sterrett, Mr. Gust, Judge Shaffer, Miss Hart or Mrs. Elliott who might care to make further presentations.

CHAIRMAN MILLARD: None are rising.

MR. BENTLEY: I see that the small charts have been distributed, Mr. Chairman, which will help the members of the committee of the whole in further understanding the jungle which we are presently attempting to reorganize and consolidate.

CHAIRMAN MILLARD: Are you yielding the floor?

MR. BENTLEY: I will be glad to yield for questions from the committee of the whole, Mr. Chairman. I see there is one question. I will be glad to yield to Mr. Everett.

CHAIRMAN MILLARD: Mr. Everett.

MR. EVERETT: Mr. Chairman, Mr. Bentley, this question may pertain more to arithmetic than substance, but in reviewing the work of the education committee which has been passed upon by the committee of the whole, it is apparent that the various governing boards of the universities bear a direct relationship to the state board of education. While they are autonomous to some degree, they are also under the control of the state board of education to some degree. It would appear offhand that, following that philosophy out, as an administrative matter shouldn't they be grouped under that department rather than excepted from the number of 20 and added on so that we have considerably more than 20 departments?

MR. BENTLEY: Mr. Chairman, in response to the gentleman from Battle Creek, I would say, serving in a dual capacity on both committees, that they would have, as we explained when the education proposals were on the floor, a very direct connection with the state board of education as well as indirectly with the state office of education, but we did not feel that we wanted to write into the constitution specifically that they had to be grouped under one of the 20 principal

departments, one of which presumably would be, of course, the new department or office or education.

MR. EVERETT: I guess, then, Mr. Chairman, Mr. Bentley, my real question is why did you determine to make this exception?

MR. BENTLEY: I think in the first place because of the increased number of the governing boards which the committee and the committee of the whole have decided upon, and secondly because — if I can explain this setup, Mr. Everett, briefly, and if I am not speaking out of order in referring to the education committee proposal, Mr. Chairman — we did establish the state office or department of education, of which the chief administrative officer would be the superintendent of public instruction. Presumably that would be one of the 20 principal departments. At the same time, the superintendent, as we envisaged it in the committee on education, would serve also as the chief executive officer of an elective state board of education. The 10 governing boards of our institutions of higher education would be somewhat outside or removed from this framework because they do have constitutional autonomy. They would be working through the state board of education, but they would continue their autonomy as set forth in the constitution. Does that answer your question, sir?

MR. EVERETT: Yes. Thank you.

MR. BENTLEY: I see Miss Donnelly has a question, Mr. Chairman. I would be happy to yield to her.

CHAIRMAN MILLARD: Mr. Hutchinson has a question.

MR. BENTLEY: I will be glad to yield to either one the Chair wishes to call upon.

MR. HUTCHINSON: I will let Miss Donnelly be recognized first. I do want to ask a question of Mr. Bentley.

CHAIRMAN MILLARD: Alright. Miss Donnelly.

MISS DONNELLY: My question is directed to line 17, "Temporary commissions or agencies for special purposes and with a life of no more than 2 years may be established by law and need not be allocated within a principal department." My question is primarily this: what is to prohibit this temporary establishment every 2 years, every 2 years? In other words, we take an agency temporarily established for 2 years and we repeat it and we repeat it and we repeat it. In effect, isn't this a loophole that could change the general intent of the entire committee proposal?

MR. BENTLEY: Mr. Chairman, in answer to the question of the lady from Highland Park, I would say that it was the intent of the committee, as I think we tried to specify in our proposal, that the commission would only have a life of 2 years, and we would assume that since it would be established by law, that the pertinent statute would prevent such a loophole as you envisage.

MISS DONNELLY: In other words, you would leave it up to the legislature to cut off any life afterwards on that even though they may need it too.

MR. BENTLEY: I think if the legislature wanted to re-establish the commission in a somewhat different form to conform with the provision of the constitution which limits the life of that temporary commission to 2 years, they could do it, but they would have to continue the commission under somewhat different form. They would not be able, under this provision, to establish it beyond a 2 year period, regardless.

MISS DONNELLY: Thank you.

CHAIRMAN MILLARD: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I am sure that Mr. Bentley could point out numerous cases, however, when the Congress of the United States has continued and continued so called temporary agencies in the federal government by simply changing the expiration date.

Mr. Chairman, my question to Mr. Bentley has to do with this matter of principal departments. What I would like to have him do is to enlarge upon what that means. And in order to let him understand what is troubling me: as I gather it, all of the departments in the government either now established or to be established in the future will have to be arranged in what he calls 20 principal departments, and that there could not be anything of a permanent nature lying outside of the 20 departments. Is that correct? If so, what is the necessity for this use of the word "principal?" Would we not have 20 permanent departments?

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, in reply to the gentleman from Fennville, I would say, first of all, that we did not attempt in the committee to try to define the functions of the various departments. We envisaged the reorganization by the legislature and the governor of the entire structure here into 20 principal divisions — perhaps that is even a better descriptive phrase than the word "departments." Within those divisions as we have set forth in our report — and I would like to interrupt briefly, if I may, to remind the members of the committee of the whole that the supporting reasons for our proposal may be found in the journal on pages 452 and 453 — the legislature and the executive branch would be able to continue, if so desired, any or all, actually, of these existing offices, bureaus, agencies, et cetera. But the point is that we were trying, Mr. Hutchinson and Mr. Chairman, to boil down the question of responsibility, and rather than have them trace their lines of responsibility all over the map as they are doing here, we were trying to set up 20 principal divisions, departments and heads of divisions and departments within which all of these other bureaus and offices and that sort of thing would have to accept their responsibility. That was the main reason, I think, for the use by the committee of the words "principal departments."

MR. HUTCHINSON: Thank you, Mr. Bentley. Then I understand that there could continue to be a department which would be part of another department, which probably could more properly be called a division.

MR. BENTLEY: Mr. Chairman, if the gentleman from Fennville will permit me, I would like to read from the first paragraph of our supporting reasons on page 453.

> Adoption of this provision would retain in the hands of the legislature and the governor considerable discretion as to internal organization within the principal departments. For example, it would not prohibit the creation, for purposes of professional regulation, of professional or quasi professional licensing boards, made up in whole or in part of members of the profession, in a department of professional standards or of licensing such as now exist in several states.

I believe, Mr. Chairman, that would satisfactorily answer the question raised by the gentleman from Fennville.

If there are no further questions, Mr. Chairman, I will yield the floor, reminding the members of the committee that this proposal was reported out by the committee on executive branch by unanimous vote.

CHAIRMAN MILLARD: Did you desire to ask a question, Mr. Faxon?

MR. FAXON: Yes.

MR. BENTLEY: I will yield to the gentleman.

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: Mr. Chairman, Mr. Bentley, I heard you say something to the effect that education would be one of the 20 principal departments.

MR. BENTLEY: Presumably but not specifically, Mr. Faxon.

MR. FAXON: All right. Then the next question is this —

CHAIRMAN MILLARD: Will you address your question through the Chair.

MR. FAXON: Mr. Chairman, Mr. Bentley, is the presumed department of education to be under the board of education or is it to be under the superintendent or under something other than either of those 2?

MR. BENTLEY: Mr. Chairman, I am sure that my distinguished colleague on the education committee, Mr. Faxon, recalls full well the procedure under which we envisaged establishing the state office of education, of which the chief administrative officer and presumably the head of the so called department would be the superintendent.

MR. FAXON: Mr. Chairman, Mr. Bentley, then am I correct in saying that the state board of education would be the

board that would determine the functions of the state department of education?

MR. BENTLEY: Mr. Chairman, again in response to the gentleman's question, I am sure that he recalls exactly how we envisaged the cooperation between the state board of education and the department of education through the role of the superintendent, who would act in the dual capacity of executive officer for the board of education and administrative officer for the department of education, carrying out policies as laid down by the state board.

MR. FAXON: Well, Mr. Chairman, Mr. Bentley, I am aware of the action that we took in committee, but in looking at — and I don't want to make reference to the proposal. There was some question as to whether the state department of education — or state office of education — would be apart from the jurisdiction of the state board of education, and I simply want to get the record straight that it is the intent that the state board of education would be the superintending agency over any state department of education.

MR. BENTLEY: Mr. Chairman, there are 3 members of the executive committee, myself, Miss Hart and Mr. Karn, who also served on the committee of education. I think all 3 of us will agree there is nothing inconsistent with our proposal here and what we did in the education committee.

MR. FAXON: Thank you.

CHAIRMAN MILLARD: Mrs. Judd, did you have a question to ask?

MRS. JUDD: I would like to ask a question of Mr. Bentley, if I may, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Happy to yield.

MRS. JUDD: I notice that much of the language in this proposal comes from the model state constitution, and I noticed that the model state constitution excepts from the 20 departments also regulatory and quasi judicial agencies. I presume you arrived at the number 20 by trying it on for size, and I wondered just what plans you had for that type of agency.

MR. BENTLEY: There was no thought to make such an exception in this case, Mr. Chairman and Mrs. Judd. I am not too familiar with the provisions of the model state constitution, but I would presume that the man who did a considerable amount of drafting for our subcommittee, Dr. Heady, is very familiar with it. It was his suggestion that we adopt the number used by the great sovereign state of New York as the number of 20, and although there was some discussion as to whether or not this number might be higher within the committee, as I say, the committee finally decided that the number 20 was a good round number, and we felt that with the exceptions of the office of governor and the lieutenant governor and the governing boards, that it would be possible to reorganize completely within this number of 20, including the agencies which you have mentioned.

MRS. JUDD: I see. Thank you very much, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Gover, did you have a question?

MR. GOVER: I have a question.

CHAIRMAN MILLARD: To whom?

MR. GOVER: To Mr. Bentley, please.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Happy to yield.

MR. GOVER: Mr. Chairman, Mr. Bentley, what thought has your committee given about control of the different licensing boards under this section such as the real estate board being controlled by a banking department or such?

MR. BENTLEY: Mr. Chairman, my friend from Sheridan evidently wasn't listening when I read the particular part of our committee reasons. Mr. Gover, do you have Journal 71 of February 2, our supporting reasons?

MR. GOVER: I have your supporting reasons right here.

MR. BENTLEY: You will note that in the very first paragraph on page 453, I think we cover the question of licensing boards. Do you have a further question after reading that, sir?

MR. GOVER: Yes, I do, because I notice your supporting statements gave the states as New York, New Jersey and Missouri with their limitations and such, as being very desirable and feasible. I wanted to call to your attention, so it would be in the record at least, that under the healing arts of medicine, chiropractic and osteopathic healing, these are separate and distinct sciences of healing and cannot be satisfactorily governed by a competitive board of healing. Now, in Missouri, as you mentioned there in the supporting reasons, there was a period of 25 years when it was impossible for a chiropractic physician to get a license in that state because they were controlled by some other branch of the healing arts, and I want to know what your committee has done in regard to alleviating that situation here in Michigan.

MR. BENTLEY: Mr. Chairman, in answer to my good friend from Sheridan, I would say that we did not take cognizance of this particular problem as it may have existed in Missouri. We merely provided for the continuation of existing licensing boards as we explained in our supporting reasons.

I might add, Mr. Chairman, that this particular language in the committee supporting reasons was introduced into our supporting reasons by an amendment offered by one of our own committee members. Now, I am not sure of my memory. Was it Mr. Hatch's amendment to put that in? It was Mr. Sterrett's amendment. I wonder if Mr. Sterrett would like to address himself to the question raised by Mr. Gover, since he wrote the language relating to the licensing boards in the committee supporting reasons.

CHAIRMAN MILLARD: Does Mr. Sterrett desire to answer that?

MR. STERRETT: Mr. Chairman, Mr. Bentley, Mr. Gover, I offered this as an amendment to the committee proposal. It was the unanimous idea that I withdraw this because it was not too constitutional language. However, it was agreed that we could put this in the committee proposal's supporting reasons for the record and for intent. And the particular reasons that you have mentioned were the particular reasons I was thinking of at the time I offered this amendment to the committee proposal.

I realize that not only in the healing arts but in many other fields of professional or quasi professional work they do have these problems of licensing, and this is the particular reason why we have put this into the supporting reasons of the committee proposal.

MR. GOVER: One other question, then, while you are on your feet. I agree that probably this is legislative, all right, but do you think that this in the verbatim journal will get enough attention that we won't run into this trouble in the state of having one particular licensing board or such dominate the complete board to the exclusion of the rest of them?

MR. STERRETT: Mr. Chairman, Mr. Bentley, Mr. Gover, I do not feel we can make this our problem. I think that we have done everything that our rights permit us to do. I believe that when the executive reorganization takes place, then it is up to the various quasi professional and professional fields to make it known that this is the intent of the constitution.

MR. GOVER: Thank you, Mr. Sterrett. I believe that just about answers the question. It doesn't give me a guarantee that other groups are going to be protected, but at least it is in the journal and records, anyway, of the convention.

MR. BENTLEY: Mr. Chairman, if I may, I would add that I agree with Mr. Sterrett that this is primarily a legislative matter, and I hope that Mr. Gover's concern will be handled by the legislature, which will have the primary job of reorganizing under our proposed structure.

MR. GOVER: Thank you, Mr. Bentley, for the remarks.

CHAIRMAN MILLARD: Delegate Dell, do you have a question?

MR. DELL: Well, Mr. Chairman, most of my questions have been answered by Mr. Everett and Mr. Hutchinson here, Judd, Sterrett and Gover, but if I may to Mr. Bentley —

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Glad to yield.

MR. DELL: My question was on the 20 departments — and don't misunderstand me, I am very much in favor of the practice of economy in government. If this will help cut costs and will make for efficiency, I am for it — but I was concerned

as to how you arrived at the 20 departments, and when I look over the list of the departments we now have, I find the question Mr. Gover brought up there — the state board of chiropractic and osteopaths and so on, that you tried to mix them up with the medical people, I don't think it would work — and the state board of alcoholism and the board of building commission, and maybe you could put the alcoholism under corrections, I don't know — great lakes commission, historical society and the racing commission, you probably could put that under revenue; and the tourist council. I just wondered how you arrived at the 20 and if you felt that that would be a sufficient number.

MR. BENTLEY: Mr. Chairman, in reply to the question from the gentleman from St. Ignace, I would have this to say: I think I referred earlier to the fact that when New York originally adopted 18 principal divisions in its new constitution, they did spell them out in the constitution. And, Mr. Chairman and Mr. Dell, they ran into more possible headings than they could possibly compound. If we even remotely tried to suggest, Mr. Chairman, possible headings for these departments here on the floor of the convention, we would, I think, almost probably be here on this one proposal from now until the fiscal deadline of May 15. We have avoided the mistake made by New York. We have further followed the example of New York, Mr. Chairman. When they found that 18 was not enough, they added an additional 2 through constitutional amendment. They arrived at the number 20, which we felt, after considerable discussion within the committee, would be a number within which our present organizational structure could be consolidated and condensed.

I would assume, and I would assure you, Mr. Chairman and Mr. Dell, that this will not be an easy task of reorganizing. That is why we are providing the 2 years for the legislature and the third year for the governor. But we do believe that it is possible, since New York began with a number of divisions equal to if not superior to the number we have now. They were able to boil it down to 18. Other states have consolidated to an even smaller figure. We think that the legislature and the governor can get to 20 if they want to.

MR. DELL: Thank you.

CHAIRMAN MILLARD: Are there any amendments to the 2 paragraphs, Mr. Secretary?

MR. BENTLEY: There are questions, Mr. Chairman, if I may yield further.

CHAIRMAN MILLARD: Mr. Farnsworth, do you have a question?

MR. FARNSWORTH: Yes, Mr. Chairman, I do, to Mr. Bentley. Mr. Bentley, you give as one of your reasons for the consolidation to bring about a more effective grouping of departments according to major purposes. Now, does that mean grouping them on paper, on a chart, or does that mean grouping them into a building with a department according to major purposes? I have noted that there are several departments strung throughout Lansing, some of them downtown, some over here on back streets. My specific question is: do you hope to physically group them together where they can be a little more definitely supervised, and do you envision savings in that regard, or are you simply going to group them on charts on paper?

MR. BENTLEY: Mr. Chairman, in response to the question of the gentleman from Allegan, I would say that we are not trying to regroup anything. We are specifically avoiding laying down guidelines for the legislature and the governor other than establishing the number of 20. I would, of course, hope — as we spell out in our supporting reasons — that the 20 would be principally grouped by purposes; that is, by general functions. And I would hope that within that general grouping by functions we would accomplish the dual purpose of getting more efficient and more responsible state government, and also something which we all devoutly hope for — more economical state government. But beyond that, Mr. Farnsworth, I think the committee has endeavored to avoid laying down any specific guidelines in this respect.

MR. FARNSWORTH: The second question, Mr. Bentley, through the Chair, please: do you envision grouping these perhaps on paper; then you find that they are pretty well dispersed throughout the city of Lansing and then it becomes necessary to appoint a coordinator to go from one office to another in order to coordinate the activities?

MR. BENTLEY: Mr. Chairman, in response to Mr. Farnsworth, I would say that it would obviously be desirable if all of these 20 could be consolidated under one roof, but I submit that that is technically a legislative and an administrative function, and I hope the committee of the whole would not want us within the constitution to try to spell out how these various divisions would be housed, other than that we would express the general belief and intent and hope that they obviously should have as close connection and relationship as possible.

CHAIRMAN MILLARD: Are there any amendments to paragraphs 2 and 3 of section b?

SECRETARY CHASE: There is an amendment pursuant to minority report C on file, Mr. Chairman.

For minority report, see above, page 1769.

CHAIRMAN MILLARD: The Chair will recognize Delegate Downs.

MR. DOWNS: Could I say that the only difference in the second paragraph is that the minority report says "except as otherwise provided by this constitution." We would prefer not to put this in now, but perhaps on second reading.

I would just briefly say that there is basic agreement here between the majority and minority on the need for executive reorganization. I believe all the delegates realize there is really nothing magic in the number 20. I think that the question that comes up is whether or not this should be affected by other constitutional bodies such as the universities that are exempted in both and to see what finally happens on the matter of elected as opposed to other forms of selecting other existing constitutional offices. So I would like to not put in the amendment — I believe that is easy to do — and let the convention know that after we have finished our committee of the whole work, we might want to put some additional amendment in at second reading.

CHAIRMAN MILLARD: Then you are asking to have the minority report amendment to paragraphs 2 and 3 withdrawn? Is that correct?

MR. DOWNS: That is correct.

CHAIRMAN MILLARD: Without objection, it will be withdrawn. Are there further amendments?

SECRETARY CHASE: Mr. Brake offers the following amendment:

1. Amend page 2, line 12, after "offices" by striking out "of governor and lieutenant governor" and inserting "held by elected officials"; so that the language will then read:

> All executive and administrative offices, agencies and instrumentalities of the state government and their respective functions, powers and duties, except for the offices held by elected officials and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. . . .

CHAIRMAN MILLARD: The Chair recognizes Delegate Brake, the proponent of this amendment.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, it is going to be a tremendous job to try to jam all of the state's activities into 20 departments. It will be found that there are many for which there is no logical home at all, where there is not enough relationship to make it logical to put them together. The sole purpose of this proposed amendment is to prevent the attorney general's office and the secretary of state's office from becoming a dumping ground for those activities that find no other home. That is all there is to it. It leaves the 20 departments or divisions for taking in all of the state's other activities, but would leave the attorney general's office and the secretary of state's office as outside of this 20.

CHAIRMAN MILLARD: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. Chairman, in a further portion of this

proposal on page 3, we specify that the single executives heading principal departments shall include a secretary of state, state treasurer and attorney general. The secretary of state and the attorney general, as of the present moment, are the only additional officials who would be elected, and it is the feeling of the committee, of course, as indicated here that they should head principal departments, that they should have a principal department under their supervision.

However, the committee in reaching the figure of 20 took into account the fact that this would be so, and therefore it was the committee's feeling that the provision for 20 departments was adequate to include these officials with their departments without making them a dumping ground for a lot of miscellaneous activity. We feel that this is true because not only has the state of New York found it possible to operate in this way, but the state of New Jersey — which is also a big and a very populous state and which had this same problem of many, many departments and agencies — was able to come within the limitation of 20, and is a comparable state. There are other states which have done this and which have been able to bring their organization into good order with less than 20 departments. I believe Missouri is one. I think Missouri has 14 departments. Hawaii and Alaska, of course, are newer and perhaps not as good examples to compare with, but they also have been able to organize with less than 20 departments.

It is our feeling, therefore, that though the figure 20 is not a magic number and we don't pretend that it is, it is sufficient, and that it is not necessary to add these 2 elected executives, which would make the number 22 instead of 20. We realize that this may require some tight scheduling, but we believe that the more departments you provide, the more you will have, that any vacuum that you leave will be filled, of course, with another department, so that we do feel that the number provided here is sufficient and that the amendment is not a necessary one. We appreciate Mr. Brake's purpose, of course, in introducing it, but we feel that it is not necessary under the circumstances.

CHAIRMAN MILLARD: Delegate Durst.

MR. DURST: Mr. Chairman, members of the committee, I think when we consider this matter that is raised by Mr. Brake, at first glance all of us think that it is almost an impossible task to put this welter of 120 agencies together into 20, and that is what bothers people. I think in this connection we could recall the testimony of Dr. Martin Faust from Missouri who took a key part in accomplishing the same job in Missouri under their constitution after it was adopted. He admitted this was the problem, but it was done there without any great difficulty. The first step is to put it together loosely, and then over the period of time functions are rearranged more coherently and it is put into a coherent whole.

I would like to read to you just briefly the testimony of Dr. William Ronan, administrative assistant to the governor of New York, who for many years, from 1932 on, was the head, as I understand it, of the legislative research council of the legislature of New York and who was the former dean of the department of administration, New York University, in describing what happened in New York and how they did it, which I envision to be a similar process that is going to occur here if this amendment is adopted. He says:

> The organization of the executive branch of New York state's government prior to 1927, when the great reorganization of the state was effected, was rather a morass of independent, nonrelated in many cases, departments, agencies, boards, commissions, committees, offices and bureaus. In order to make a rational structure, how we operated for those years is a matter of conjecture.
>
> We didn't operate very efficiently, and the movement for governmental reorganization in New York state goes back many years . . . when the state constitution was amended in 1926 and the new organization put into effect in statutes in 1927, and this welter of agencies aggregating, depending on how you counted them, in the neighborhood of 100 to 200 were reduced to a rational structure, pseudo rational, at any rate, quickly and then ultimately, into a structure that we found very effective in the state of 18 departments of state government.
>
> This number has since been expanded to 20 and we recently had a constitutional amendment reiterating the limitation on departments, limiting them to 20, but eliminating the provision in the Al Smith reorganization as it came into the constitution, which named the departments in the constitution.

This makes clear, as Dr. Faust indicated and as Dr. Ronan indicated, that when the task is first approached, naturally when you put this structure together it is going to look somewhat loose. There are going to be things out of place. It is impossible, probably, to do it all in one day.

The question that Mr. Brake raises in support of his amendment that perhaps the secretary of state and the attorney general would get a lot of functions that didn't belong there may possibly happen, but to my mind this is no justification for increasing the number in effect to 22, which is the effect his amendment has. As other speakers have pointed out, 20 has worked very effectively in other states and certainly should work effectively in the state of Michigan.

CHAIRMAN MILLARD: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, speaking on Mr. Brake's amendment, I rise in support of it and desire to point out a problem which I think exists because of the fact that we are going to have a couple of elected officials here, which apparently wasn't envisaged by the committee when they drafted their proposal. I noted that, as Mr. Martin states, they contemplated that the state treasurer and the attorney general and the secretary of state would each head a principal department. Those officials were all to be appointed under the committee's proposal. I notice also that the committee in drafting its proposal carefully did exclude from the 20 departments the officers which it envisioned would be elected, the governor, the lieutenant governor and these educational boards. They were to be popularly elected. They were not to be included within the limitations of the 20 principal departments, and I think that the committee's thinking was wise to exclude from this reorganization those departments which are headed by elected officials, for the reason that in the reorganization, I am not concerned so much about the initial allocation of these functions within 20 departments, but when we get down into the subsequent machinery of this, it appears to me that thereafter as the legislature might create some new function, it would be apparently up to the governor to fit it into one of the 20 principal departments. Suppose that you had a governor of one party and a secretary of state and attorney general — and/or — of another party. When it came time to allocate functions, the functions allocated might be increased, altered, changed, taken away from these elected officials simply because they were elected officials, perhaps elected out of another party.

I submit to you that the functions that should be vested in the departments headed by elected officials should be vested there by legislative act. If the legislature wants an elected official to do something, it should direct him to do so by law, and that it is wise in this reorganization concept to take the committee at its "coming in" situation where it, itself, apparently conceded that, and would leave within the reorganization concept those departments which were to be headed by appointed officials. Therefore, I think that it is only logical that Mr. Brake's amendment be supported and that those departments in the government which are headed by elected officials should not be within this concept of 20 principal departments.

CHAIRMAN MILLARD: Delegate Hatch.

MR. HATCH: Mr. Chairman, I would like to direct a question through the Chair to Mr. Brake, if I may.

CHAIRMAN MILLARD: Mr. Brake, if you care to answer.

MR. HATCH: Mr. Brake, in section d of Committee Proposal 71, it is provided that each principal department shall be under the supervision of the governor. Do you intend by this amendment that the attorney general and the secretary of state, because they would not be of these principal depart-

ments, would not be under the supervision of the governor?

MR. BRAKE: No, I had no such intention.

MR. HATCH: Well then, did you then plan to offer an amendment to section d to accomplish this?

MR. BRAKE: I had not even connected the 2.

MR. HATCH: Well, I would oppose the Brake amendment for the reasons stated by Mr. Bentley, also by Mr. Durst and others, that the committee has considered this number 20 sufficiently and carefully and feels that it is a sufficient number of principal departments. I also would oppose it because I think it should be crystal clear that although the attorney general and the secretary of state may be elected independently of the governor, that they should be under his supervision if they are to be heads of departments.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Mr. Iverson.

MR. IVERSON: Mr. Chairman, I would like to direct a question to Mr. Brake.

CHAIRMAN MILLARD: Mr. Brake, if you care to answer.

MR. IVERSON: Mr. Brake, would you foresee by your amendment, in view of your previous statement that you didn't like to see the attorney general or secretary of state or any other elective office being a dumping ground for other functions of government, the possibility that the legislature might not be permitted to add functions to their office if they so saw fit?

MR. BRAKE: Not at all, not at all. But it saves out 2 departments that are not included in this concept of the other departments headed by other than elected officials so they will be limited to 20. Of course, the legislature must have power to change the authority of the attorney general and of the secretary of state.

MR. IVERSON: Mr. Chairman, so that if this amendment were passed, then you feel that the legislature would be in a position, if they saw fit to increase the powers of either of those officers, to do so?

MR. BRAKE: Most certainly, Mr. Chairman.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Bloomfield Hills, Mr. Romney.

MR. ROMNEY: I just wanted to make this statement, Mr. Chairman, that in relationship to this question of the feasibility of the number of 20 departments, I asked 2 different organizations who devoted a great deal of time to administrative organization to undertake to make a logical grouping of the various Michigan executive departments, commissions and boards, and one organization came up with a grouping of 13. In other words, they could be logically grouped into 13 departments. And the other came up with 14. I mention that because it seems to me that it is unnecessary to pass this amendment which would make provision for 2 departments beyond the 20. Actually the 20, as far as my experience is concerned, would be more than ample, and this would be unnecessary.

CHAIRMAN MILLARD: The question is on the Brake amendment.

DELEGATES: Division.

CHAIRMAN MILLARD: A division has been called for. Is there support? A sufficient number up. The question is on the Brake amendment. All those in favor will vote aye. All those opposed will vote nay. Have you all voted? If so, the machine will be locked. The secretary will tally the vote.

SECRETARY CHASE: On the amendment offered by Mr. Brake, the yeas are 38; the nays are 66.

CHAIRMAN MILLARD: The amendment is not adopted. Are there any further amendments to paragraphs 2 and 3?

SECRETARY CHASE: None on file, Mr. Chairman.

CHAIRMAN MILLARD: Are there any amendments from the floor on paragraphs 2 and 3 of section b? If not, we will proceed to paragraph 4 and the secretary will read.

SECRETARY CHASE: Paragraph 4 of section b:

[Paragraph 4 was read by the secretary. For text, see above, page 1766.]

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, I don't anticipate that we will be able to finish our discussion on this particular paragraph since I would expect that the committee would rise not later than 5:00 o'clock. But I think we can get started on our discussion of it, and I would like to start by saying that this is not a new proposal in state government. The state now has a statute under which the governor is permitted to suggest reorganization plans to the legislature and to present those plans to the legislature subject to legislative veto, and these plans may group the functions of various departments in such fashion as the governor thinks is desirable and necessary for the improved functioning of government. The legislature is then given a period of time in which to act upon them. If the legislature rejects them, they do not become law —

CHAIRMAN MILLARD: The committee will come to order.

MR. MARTIN: — if the legislature takes no action, of course they do.

Mr. Chairman, this was also a matter which was considered in the committee, in the subcommittee on reorganization, and I want to call on the chairman of the subcommittee, Mr. Bentley, to make a further explanation.

I would only say that it appears to us that it is desirable to include such a provision in the constitution because it is the best way that we know of effecting ongoing reorganization from time to time after this general reorganization on which we have just acted is completed. We believe this is a proper instrument of good government, and that giving it constitutional status is a highly desirable thing. I will call on Mr. Bentley at this time.

CHAIRMAN MILLARD: The Chair will recognize Mr. Bentley.

MR. BENTLEY: Mr. Chairman, members of the committee, we now come to the provision of the proposal of the executive branch committee dealing with the question of reorganization after the third year following the adoption of the constitution. As it was explained in the previous 2 paragraphs, we have provided for the initial period of 2 years for the legislature to reorganize. We have provided for the governor to act by executive order for the third year. The paragraph which is now under discussion contemplates reorganization actions after the third year.

Unlike the preceding 2 paragraphs, Mr. Chairman, there is controversy on this particular paragraph. There are, I believe, 2 minority reports. They differ not in the concept of the reorganization procedure, but they do differ in the degree of ease or of difficulty with which the legislative body should be enabled to approve or disapprove the reorganization acts of the governor. In this connection, Mr. Chairman, I would like to say that we do have, as Chairman Martin outlined, of course, I believe, a 4 year old statute which does provide for the reorganization as carried out by the statute at the present time. I have been exposed, Mr. Chairman, during my years in Washington, to reorganization at the federal level along this line, which of course has been in statutory existence, I believe, ever since 1932 or 1933. The reorganization action on the federal level has been changed over the years. Currently the federal government is operating under the reorganization act of 1949, which has been changed somewhat, the last change making it easier for the legislative body — that is, the congress — to disapprove executive reorganization plans. I believe now the present language as far as Washington is concerned provides for a disapproval by simple majority of either house of congress, and we have seen even during the current year examples of legislative disapproval of federal reorganization schemes.

Writing a reorganization plan into the constitution, Mr. Chairman, is admittedly somewhat of a novelty. I believe there is only one other state at the present time that does have a provision in its state constitution for executive reorganization and legislative approval or disapproval. Nevertheless, the members of the committee on executive branch, I believe unanimously, agreed on the concept of writing it into the constitution as a forward looking step permitting more effec-

tive and more efficient reorganization over future years of our state government. Where the members of the committee on executive branch did disagree was in whether it should be relatively difficult or relatively easy for the legislature to disapprove the proposed reorganization plans as submitted by the executive within the 60 day period as we have provided for in our proposal. I am not going to explain at this time the amendment which I and other members of the committee are submitting in the form of a minority report. I assume the other minority report will likewise be explained by those proponents of that particular amendment. But I do believe — and I would like to emphasize to the members of the committee of the whole — that within the committee there was unanimous agreement that this procedure properly did belong in the constitution rather than leaving it to statute as in the present situation. We did differ as to whether it should be difficult or easy, relatively speaking, for the legislature to approve or disapprove those executive reorganization plans as submitted by the governor.

With that, Mr. Chairman, I believe, I will be glad, or Mr. Martin, I am sure, will be glad to answer questions, and then I presume either now or tomorrow morning, depending upon our time, we will be taking up these 2 minority amendments and other amendments that may be offered.

CHAIRMAN MILLARD: Are there any questions? If not, the secretary will read the minority report amendment.

SECRETARY CHASE: Pursuant to minority report B of Messrs. Bentley, Hatch, Shackleton, King, Karn, Shaffer and Dean Doty,

Mr. Bentley offers the following amendment:

1. Amend page 3, line 5, after "in" by striking out "both houses" and inserting "either house".

[Mr. Bentley, in order to accomplish the intent of the minority report, revised the minority report amendment to include the following amendment:

1. Amend page 3, line 6, after "members elect" by striking out "of each house".]

The language will then read:

> Unless disapproved in either house by a resolution concurred in by a majority of the members elect, these orders shall become effective at a date thereafter to be designated by the governor.

CHAIRMAN MILLARD: The Chair will recognize Delegate Bentley, the first name on the amendment.

MR. BENTLEY: Mr. Chairman, I was furnished with separate amendment sheets on this, but since they pertain to adjoining lines on page 3, and since they are obviously interrelated, I suppose there would be no objection to considering them en bloc.

CHAIRMAN MILLARD: They are tied together, Mr. Bentley.

MR. BENTLEY: Thank you. Mr. Chairman, I would like to mention the members of the executive branch committee who join me as cosponsors of this minority amendment. They are, Mr. Hatch, Mr. Shackleton, Mr. King, Mr. Karn, Judge Shaffer and Mr. Dean Doty. The last 2 names unfortunately could not be printed on the yellow sheet.

Mr. Chairman, the committee proposal suggests that to have, within the 60 day period, legislative disapproval of an executive reorganization plan, it would require a majority of those members elect in both houses of the legislature to so disapprove this plan. Otherwise, it would take effect. The intent of our amendment — in fact, the effect of it, Mr. Chairman — is to require only a majority of those members elect in either house of the legislature, which in my understanding conforms to the present statute of 1958, which at this time I would like to read, since, I believe, it is very brief. It is as follows:

> Within the first 30 days of any regular legislative session, the governor may submit to both houses of the legislature at the same time, 1 or more formal and specific plans for the reorganization of executive agencies of state government.

I will not read the entire statute. I think this is the only other pertinent section:

> Section 2. A reorganization plan so submitted shall become effective by executive order not sooner than 90 days after the final adjournment of the session of the legislature to which it is submitted, unless it is disapproved within 60 legislative days of its submission by a senate or house resolution adopted by a majority vote of the respective members elect thereof.

In other words, Mr. Chairman, it is my understanding and former members of the legislature who are here present can confirm this if they desire — that if, within the 60 days following the submission of the executive reorganization plan under the current statute a majority of the members elect in either house of the legislature disapprove the plan, it does not become effective. The committee proposal would, of course, make it more difficult by requiring a majority in both houses of the members elect to disapprove the reorganization plan. I and my cosponsors believe that it would be better, in view of the novelty of this procedure, to conform to the existing statute, and that is the intent of our amendment.

CHAIRMAN MILLARD: The Chair will recognize Delegate Sterrett.

MR. STERRETT: Mr. Chairman, members of the committee, I would object to this amendment. I hope it is defeated and the committee report is supported. My particular objection here is that I feel that if in the executive reorganization there is establishment of a department, that it would be, I think, handled adequately by both houses disapproving it, and I am sure that if there is anything seriously wrong in the reorganization, it would be recognized by both houses. I feel that it is too loose here to have it in either house or each house. Therefore, I would be against this amendment.

CHAIRMAN MILLARD: The Chair recognizes Delegate Downs on the Bentley amendment.

MR. DOWNS: Mr. Chairman, I rise in opposition to the amendment. I think it is unfortunate that we have not handled the matter of legislative organization before this comes up. However, I would like to point out the possibility — and if I am wrong, I would be glad to have somebody correct me —that we might have a case where one house of a legislature was in favor of a reorganization plan and this was not passed by the other house. Then after the 2 years for the reorganization by the legislature had expired, the governor might submit a plan which would be approved by one house and disapproved by another, and I think it might create an impossible stalemate. This may not be the intent, and if I am corrected on that, I would certainly be glad to be.

I just have one other thing to say. In looking at this, I do not think, in my judgment, this is a matter of: do we trust the legislature? Do we trust the governor? It is simply trying to find a realistic way to create 20 — or whatever other number we finally settle on — executive departments, and I am very pleased that Delegate Bentley in his presentation brought out that it is easier to say "there shall be 20 departments" than determine just how this is done. All I do hope is that we work out a system where we ultimately will get this done, whether it is by legislative or executive action.

MR. BENTLEY: Will the gentleman yield to me for a brief comment on his presentation?

MR. DOWNS: Yes, I will, Mr. Chairman, through the Chair.

MR. BENTLEY: Mr. Chairman, Mr. Downs, this would not apply to the initial reorganization, because under our previous paragraphs the legislature has 2 years in which to act. If they fail to act, as you suggest, through disagreement of either house, during the third year the governor by executive order has complete freedom to reorganize as he sees fit without any legislative sanction at all, and the amendment which we are now debating is only after the initial period of reorganization; that is, at least 3 years or longer following the date of the adoption of the constitution.

MR. DOWNS: Mr. Chairman, may I ask Delegate Bentley a question through the Chair?

CHAIRMAN MILLARD: If he cares to answer.

MR. DOWNS: I am glad you pointed that out, Delegate Bentley. I want to see if I am correct, though, that after this 2 or 3 year period had expired, could there then be the possibility of a deadlock between the houses of the legislature and the governor on a reorganization plan or organization plan for future agencies?

MR. BENTLEY: Mr. Chairman, in reply to the question raised by my good friend from Detroit, Mr. Downs, I will say this: there could be a deadlock, because the governor could set up a subsequent reorganization plan and one house could pass it and the other house could disapprove it within a 60 day period, but it would not apply to the initial reorganization of 20 principal departments, because if the legislature failed to reorganize into 20 principal departments during the first 2 years, we give the governor specifically during the third year complete freedom by executive order to so reorganize.

MR. DOWNS: Alright. Thank you. I think it does have the weakness for the future reorganization rather than the immediate, and I am glad that Delegate Bentley pointed that out. Thank you.

CHAIRMAN MILLARD: Delegate Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I rise in support of Mr. Bentley's amendment, and would say in support of it that I don't believe that we should overlook the tremendous political power which accompanies governmental reorganization. Whoever has the power by an executive order to organize and to rearrange the departments of his government to suit his will has a tremendous political power, because if, for instance, a particular function is being carried on in one department in a way which doesn't suit the governor and still he doesn't think it politically wise, you know, to remove the head of the department or anything, he can, by a reorganization plan, simply take that function which is being performed in a manner not suitable to him out of that department and place it someplace else. That is a tremendous political power. It is a tremendous political advantage in any man who can be governor. Consequently, it is only a fair check and balance to permit either house of the legislature to veto it.

I want to confine my remarks strictly to Mr. Bentley's amendment. There are many other facets of this whole thing that I want to raise from time to time, but at this time I think it important for this committee to remember what I have said: the tremendous political power which is encompassed within this power to, at will, suit the governor, alter the operations, the functions, the responsibilities of the departments in his branch.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, do we have other speakers on your list?

CHAIRMAN MILLARD: The Chair has one, Mr. Binkowski.

MR. MARTIN: Well, perhaps we can terminate this, Mr. Chairman. I will yield to Mr. Binkowski.

CHAIRMAN MILLARD: Mr. Binkowski.

MR. BINKOWSKI: Mr. Chairman, members of the committee, I will speak very briefly. I speak against the amendment. And I would like to remind the members of this committee that in spite of the fact that we have had an executive reorganization plan since 1958, and also a plan which barely was passed in the legislature in the first instance, that there has not been a plan which has been accepted by the legislature.

Now, it is my understanding — and of course Mr. Hutchinson who was a senator back at that time can explain in detail to you — the first executive reorganization plans were submitted to the legislature, I believe, in 1959. They were rejected and then resubmitted in the form of legislation. While there is, of course, a possibility of abuse, I think that you have a sufficient check and balance if you have a simple majority elect of both houses, and I think in the past experience, which has been demonstrated with this law on the books, that it has been too easy for the legislature not to go along with the governor. And I submit that if you want a strong executive, if you want to place the responsibility upon him, this is the manner in which you do it, and therefore I speak against the amendment.

CHAIRMAN MILLARD: Mr. Hatch.

MR. HATCH: Mr. Chairman, I had several things I wanted to say on this, but because of the hour, I would just like to make one brief point: it seems rather ridiculous to me to permit a reorganization which can only be defeated by the vote of both houses of the legislature, when after this reorganization takes effect, if one house is definitely opposed to a segment of this reorganization, you have to pass appropriation bills to support, say, a given department or an agency set up under a reorganization. If one house is against that, they are going to fight appropriations for it. So I favor the minority report amendment and feel that it is the only consistent procedure which can be followed.

CHAIRMAN MILLARD: Judge Leibrand.

MR. LEIBRAND: May I inquire of Chairman Martin whether he proposes to let this go to a vote this afternoon, or will the vote be deferred until tomorrow morning?

MR. MARTIN: Mr. Chairman, I thought that we were about through discussing it and we would take a vote on it, but if there are others who want to speak, I am going to move to rise.

MR. LEIBRAND: Thank you, Mr. Chairman.

CHAIRMAN MILLARD: There are 2: Judge Leibrand and Mr. Karn.

MR. MARTIN: There appear to be several who want to be heard, and for that reason, Mr. Chairman, I move that the committee do now rise.

CHAIRMAN MILLARD: The question is on the motion of Mr. Martin that the committee do now rise. All in favor will say aye. Opposed, no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair will recognize Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration a proposal of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 71** to provide for the election, terms and duties of state officers, and so forth; has considered several amendments thereto; has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Are there any announcements?

SECRETARY CHASE: I have no announcements, Mr. President.

I have the following requests for leave: Mr. Snyder wishes to be excused from the session of Monday, March 26, and Monday, April 2; Mr. A. G. Elliott wishes to be excused from tomorrow's session; Mr. Dade wishes to be excused from the session of Monday, March 26, and temporarily from the session of Tuesday morning; Mr. Lundgren wishes to be excused from the session of tomorrow because of personal business; and Mr. Norris wishes to be excused from the session of tomorrow.

PRESIDENT NISBET: Without objection, they will be excused.

The Chair recognizes Mr. Sharpe.

MR. SHARPE: Mr. President, I move the convention adjourn.

PRESIDENT NISBET: The question is on adjournment. Those in favor say aye. Opposed, no.

We are adjourned until 9:00 o'clock tomorrow morning.

[Whereupon, at 5:05 o'clock p.m., and in pursuance of the order previously made, the convention adjourned until 9:00 o'clock a.m., Friday, March 23, 1962.]

ONE HUNDRED SIXTH DAY

Friday, March 23, 1962, 9:00 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please **come to order.**

The **invocation** this morning will be given by the pastor of one of our delegates, Mr. Van Dusen, the Reverend Gerald B. O'Grady, Jr., of Christ Church Cranbrook, Bloomfield Hills.

REVEREND O'GRADY: Let us pray. O Lord, God almighty, guide, we pray Thee, our president and all those to whom has been committed the government of this nation, and grant to them the special gifts of wisdom, understanding, counsel and strength that, upholding what is right and following what is true, they may obey Thy holy will and fulfill Thy divine purposes. And especially we commend to Thee, O Lord, all who are engaged in the government of this state and those who plan for it. Grant to them integrity of purpose and unfailing devotion to the cause of righteousness. May all their legislation be such as will promote our welfare, to the succor of the poor, the relief of the oppressed, the putting down of all social evils and the redress of all social wrongs. To Thy glory and the good example of Thy people, through Jesus Christ, our Lord. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present, please vote aye. Have you all recorded your attendance? If so, the secretary will lock the machine.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave: Mr. Habermehl, from the first 2 hours of today's session; and from today's session, Mr. Staiger and Mr. Krolikowski who is ill.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. A. G. Elliott, Habermehl, Krolikowski, Lundgren, Mahinske, Mosier, Norris, Ostrow and Staiger.

Absent without leave: Messrs. Douglas, Ford, Gust, Mrs. Hatcher, Messrs. Marshall, Murphy, Prettie and Wilkowski.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings the following delegates entered the chamber and took their seats: Mrs. Hatcher, Messrs. Douglas, Murphy, Prettie, Marshall, Ford and Gust.]

The Chair recognizes Mr. Suzore.

MR. SUZORE: Mr. President and members of the convention, one of the most sought after political prizes in Wayne county is chairman of the Wayne county board of supervisors, and by arrangement and resolution, agreement of the members of both the outcounty and the city of Detroit, the supervisors of the city of Detroit elect the chairman for a 2 year period, and the outcounty has it every third year.

Last night, the members of the Wayne county outcounty supervisors held their annual caucus, and at that meeting, unanimously nominated and, we hope, on the second Tuesday of April, will elect John McCauley, our fellow delegate, as chairman of the Wayne county board of supervisors. (standing ovation)

PRESIDENT NISBET: Congratulations, Mr. McCauley. I hope you can make the proceedings go on as rapidly there as we do here. (laughter)

SECRETARY CHASE: Mrs. Cushman requests leave from the latter part of this morning's session.

PRESIDENT NISBET: Without objection, it will be granted.

Reports of standing committees.

SECRETARY CHASE: None.

PRESIDENT NISBET: Select committees.

SECRETARY CHASE: None.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: No communications.

PRESIDENT NISBET: Third reading.

SECRETARY CHASE: Nothing on that calendar.

PRESIDENT NISBET: **Motions and resolutions.**

SECRETARY CHASE: Mr. Everett and 29 other delegates offer

Resolution 84, A resolution relative to time of convention sessions.

Following is Resolution 84 as offered:

Resolved, That we, the undersigned delegates, hereby resolve that the following be the work schedule for the convention:

Monday	6:30 - 10:30 p.m.
Tuesday and Thursday	9:00 - 12:00 a.m.
	1:30 - 5:30 p.m.
	7:30 - 10:00 p.m.
Wednesday	9:00 - 12:00 a.m.
	1:30 - 5:30 p.m.
Friday	9:00 - 12:00 a.m.
	1:00 - 3:30 p.m.

Stanley Everett	Raymond Plank
Don Seyferth	William Suzore
James Sterrett	Claud Erickson
Arthur Elliott	Anne Conklin
Peter Buback	Don Batchelor
Frank Perlich	Alvin Bentley
Edmond Lesinski	William Cudlip
Weldon Yeager	Ruth Butler
S. Martin Tweedie III	Joseph Sablich
David Upton	Clyne Durst, Jr.
J. Burton Richards	Ann Donnelly
Herbert Turner	Ella Koeze
Charles Youngblood, Jr.	Anthony Stamm
Coleman Young	Frank Balcer
George Romney	Theodore Brown

PRESIDENT NISBET: It will be referred to the committee on rules and resolutions.

Unfinished business.

SECRETARY CHASE: None.

PRESIDENT NISBET: **General orders.** Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of taking up matters on the general orders calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Millard. All those in favor will say aye. Opposed, no.

The motion prevails. Mr. Millard.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MILLARD: The committee will be in order and the secretary will read.

SECRETARY CHASE: Item 11 on the general orders calendar, from the committee on executive branch, by Mr. Martin, chairman, **Committee Proposal 71,** a proposal to provide for the election, term and duties of state officers, allocation of departments, and so forth.

For last previous action by the committee of the whole on Committee Proposal 71, see above, page 1827.

There was under consideration, when the committee rose last evening, a minority report amendment offered by Mr. Bentley.

[The amendment was again read by the secretary. For text, see above, page 1843.]

CHAIRMAN MILLARD: At the close of last night's session, there were 2 names on the list to be heard on the Bentley amendment. The Chair will recognize the gentleman from Bay City, Judge Leibrand.

MR. LEIBRAND: Pass, Mr. Chairman.

CHAIRMAN MILLARD: The gentleman from Jackson, Delegate Karn.

MR. KARN: Pass, Mr. Chairman.

CHAIRMAN MILLARD: Then the question is on the Bentley amendment. Mr. Heideman.

MR. HEIDEMAN: I guess I am still a little under the weather. I asked for permission to say a word yesterday, Mr. Chairman.

CHAIRMAN MILLARD: You may proceed, Delegate Heideman.

MR. HEIDEMAN: I would like to speak in favor of this amendment. If I were a poet, I would write a poem on our pale, poor, abused legislature. One day we give the powers to the supreme court; on another day we give the powers to the governor; on still another day, we give legislative powers to civil service; on another, to a quasi legislative or judicial body or commission. One day the Democrats kick the legislature; on another day the Republicans do the same. There is a seeming bipartisan approach to this, a cooperation, as it were, here at the constitutional convention, to cut down or whittle away the powers of the legislature.

As we all know, from the earliest inception, the origin and growth of constitutional government of free society has coincided with the origin and growth of legislative bodies and, of course, to an extent, the courts; not the executive. And the converse, of course, has been true in our time, that the ending of free societies has been by the increasing and over extending of executive powers.

It is one thing to increase the powers of the executive, to make a more efficient, a more potent force in the government or of the judiciary; it is another thing to weaken the legislature. I think that we should try to strengthen all 3 branches of state government in this constitution and, therefore, I think that it is sufficient that if 1 branch of the legislature wishes to disapprove of the plan, it should be able to do so, as it would take 2 in a bicameral legislature to pass such legislation.

CHAIRMAN MILLARD: The question is on the Bentley amendment. Mr. Bentley.

MR. BENTLEY: Mr. Chairman, it may be a little early in the morning for some of us to recall the debate on this subject last night. It is a very simple issue. It would only pertain to those reorganization plans submitted by the governor following the 3 year period after the adoption of the constitution. In other words, it does not pertain to the initial reorganization and the 20 principal departments which we approved yesterday.

The issue before the committee of the whole is merely, is the legislature required to disapprove the governor's reorganization plan by a disapproval resolution passed in both houses of the legislature, or will it suffice to have either house disapprove it? That is the issue before the committee of the whole, Mr. Chairman.

CHAIRMAN MILLARD: Delegate Martin.

MR. MARTIN: I yield to Mrs. Judd, Mr. Chairman, if she wishes to speak.

CHAIRMAN MILLARD: Mrs. Judd.

MRS. JUDD: Mr. Chairman, I would just like to ask for some information. I don't have the facts, but my impression has been that through the years the effort to secure reorganization in the federal government has been slow because of the requirements of congressional approval, and I wonder whether we should make it so difficult. I don't know whether Dr. Pollock could answer this question. He knows something about the experience in federal reorganization.

CHAIRMAN MILLARD: Dr. Pollock, do you desire to answer?

MR. POLLOCK: Mrs. Judd, Mr. Chairman, I am glad to reply to that question. This was thoroughly discussed in the committee, and the Bentley amendment was not accepted in the committee. And I think the reasons are as indicated by Mrs. Judd's question. It is true that federal reorganization has moved very slowly because there, as with Mr. Bentley's amendment—and I presume that is where he gets his inspiration—the provision is that either house can knock down a presidential recommendation. So you are quite correct that reorganizations at the federal level have been impeded by the ease with which you can get one house or the other to defeat the proposal. We have recently had an example of this, and we have one almost every session.

It seems to me, Mr. Chairman, that the problem is one of administrative organization and here, it seems to me, the governor is in a much better position to know what is needed within his own administrative structure than anybody else. I think certainly the legislature should have the power to veto any proposal that is not in the public interest, but I do not think that this should be made easy, and I think it is not too difficult by requiring a majority of both houses. Therefore, I am opposed to the Bentley amendment.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I am sorry to take issue with my good friend from Ann Arbor, but if Mrs. Judd feels that she got an answer to her question, I do not. I am sure that Dr. Pollock will recall that over the years the federal reorganization statutes have only been approved on a 2 year basis; that is, there is nothing permanent about it. The congress retains the right to approve them or disapprove them every 2 years. That is the enabling act. Furthermore, I am sure that Dr. Pollock will also recall that over the years, the trend has been for the congress to make it more easy to disapprove executive reorganization plans than was initially the case. Finally, I am sure that Dr. Pollock will also recall that the present statute is even more flexible and makes it easier for the congress to disapprove than does the one we are proposing, because we are requiring here or we are asking that it be a majority of the members elect in either house, whereas the present statute in the congress merely provides that a simple majority of a quorum of either house may disapprove an executive reorganization plan, which is far more liberal and far easier to disapprove than is the case we are suggesting. We are merely requesting that the constitutional proviso conform to the existing statute in the legislature.

MR. POLLOCK: Mr. Chairman.

CHAIRMAN MILLARD: Delegate Hutchinson is on the list, Dr. Pollock.

MR. HUTCHINSON: Mr. Chairman and ladies and gentlemen of this committee, Mrs. Judd's question and Mr. Pollock's reply infer that the legislative branch of government is obstructionist and is the reason for the slowness in governmental reorganization. With that I take issue and would argue this way: under this arrangement you are turning the traditional system upside down, to begin with. Instead of giving to the legislature the lawmaking function in these reorganization plans, and to the governor a veto, you are giving to the governor, in effect, the power to make the law and you are according to the legislature a veto.

Keeping in mind the traditional way of doing things, where the legislature is the lawmaker, nobody seems to object that the governor, a single man, a single individual, may veto what the legislature may do, and when the governor vetoes, strangely enough, nobody seems to charge that it is the governor that is obstructing. So, when we turn this thing around and we say, let a majority of the members of either house veto what the governor proposes to make the law, then you say that is obstructionist. I think it is unfair and I don't think it is rea-

sonable. Certainly, the veto power of the governor is just as obstructionist—if that is what you are thinking about—as would be the case of letting either house veto.

I call your attention to this again: this is a tremendous political power, this power to reorganize. And I am not willing to agree, offhand, that just because the governor thinks that a particular reorganization is in the best interests of the government, that that necessarily makes it so. I think that the governor also can make some mistakes or be misled, or be influenced by groups or be influenced by considerations, which, in the minds of other people, might not be in the best interests of the state. Consequently, when you subject the governor's reorganization to the test of veto by either house, you are simply applying, in a reverse sort of arrangement, the same principle which we have always had.

I disagree with this inference, and this argument that slowness in reorganization is evil or bad. It is a matter of getting people to agree upon which course to follow. I think that it would be extremely bad public policy to, in effect, permit the governor to reorganize the executive branch in any way that he saw fit without any real effective legislative veto, and then, at the same time, expect the legislature to come forth and produce the money with which to carry on, perhaps, increased programs and different emphasis upon programs brought about because, as I said yesterday, I can well imagine that a governor may be dissatisfied with the emphasis or the way that a particular program is being carried on in one department and think that he can get a better treatment of it somewhere else, it can be expanded somewhere else; perhaps the head of another department is more friendly with the governor and they can expand the program to the political benefit of the governor, and the legislature will be expected to provide the money, and at the same time you have effectively denied the legislature any positive or effective role in asserting what it thinks to be the best interests of the state of Michigan. After all, the legislature, too, is elected by the people, is answerable to the people, not statewide but by constituency, and for those reasons, I think that the Bentley amendment is a good one, that at least it won't be as bad a system as it would be if you, in effect, denied to the legislature the power of veto.

CHAIRMAN MILLARD: The Chair recognizes Dr. Pollock.

MR. POLLOCK: Mr. Chairman and members of the committee, I don't think the issue should be clouded. It is a very simple issue: do you want to perpetuate the kind of maze of administrative organizations as that chart over there indicates, or do you want to devise a bit of machinery, simple and effective in itself, which can accomplish for the state of Michigan what, I think, the majority of people want, namely; an efficient and economical administrative structure? The history of administrative reorganizations show very clearly that although they have helped, they haven't been as effective as they should be largely because of the reluctance of the legislature to go along with the proposals made by governors and particularly by presidents.

I can understand the feeling of these 2 former legislators who see a whittling away of a little bit of legislative—not power, but really—obstructionism. It is not a case, really, of effectively using your power, because they haven't used their power to reorganize. That is why these amendments have been suggested. The whole story, so far as Washington is concerned is, as Mr. Bentley quite clearly indicates, congress giving a limited grant of power to the president, so that he hasn't very much time to do anything with it, and then gradually whittling it down until it provides for a veto by just one house, which has proved to be so easy that even when the president has sometimes rather unobjectionable proposals about reorganization, congress feels a certain partiality to its own point of view and they just don't want the president to have this power.

I think the history of administrative reorganizations and the failure to have administrative reorganization clearly points to the excellence of this device, and the only point at issue is whether you want it to be very easy for the legislature to knock down a proposal which, as Mr. Hutchinson—I think, with a great deal of exaggeration—indicates that it is a fearful exercise of power by the governor, it is the kind of administrative authority which any general manager of a business would insist upon having, if he couldn't rearrange his own administrative structure to promote the efficiency of the organization, he wouldn't want to be general manager. It is, of course, a matter of power; but the question of power, and calling it a traditional way of doing things doesn't make a bad institution good. And the fact simply is, as I see it, either you want to promote flexibility in administrative structure, and thus to permit the abolition of useless agencies, the combining of others, or you want to make it so difficult that, in fact, it is not going to be accomplished.

It is true that we have a statute in Michigan, one of the few states that have such a statute, permitting this power by the governor. But again, the experience of our legislature in the exercise of their veto over the governor's power gives nobody any encouragement that it will ever get anywhere if it remains as easy as that, and that is why the committee, in its wisdom, I think, provided that it would take a veto by both houses, and when we say "members elect", that means you don't count absentees against the proposal; that is precisely the point.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Dr. Nord.

MR. NORD: Mr. Chairman, Mr. Hutchinson has made a theoretical argument about veto by one house as compared with veto by the governor, although I believe he objects to the word "veto," and I would like to consider this argument further, and I should like to point out that there is a very big difference between veto by one house as proposed by the present amendment, and on the other hand, a veto by either the governor or a veto by both houses. There is a big difference in principle.

For example, a majority of either house, a majority of one house, is not, necessarily, a majority of the people, or does not necessarily represent a majority of the people. There are 2 possible reasons why that might be so. In the first place, it might be that if you considered both houses—considered the majority of the members of both houses—they might favor a certain plan, and yet the majority of one house might not favor it. Therefore, when you arbitrarily divide a group into 2 halves and say, you only need a majority of one half, a majority of one half of the group is not, necessarily, a majority of the entire group. Similarly, if either house does not represent population—which is to be anticipated—again, this factor is easily exaggerated. Therefore, there are at least 2 reasons I could think of why a majority of one house might very easily represent something other than a majority of the people on a certain issue.

On the other hand, a majority of both houses certainly will either represent a majority of the people or will be much closer to that. And, similarly, a veto by the governor—the governor is elected by all of the people—and a veto by him does reflect, as much as he can determine, the wishes of the majority of the people. Therefore, it seems to me that the argument made by Mr. Hutchinson that when the governor vetoes we should compare that with a veto by one house, is a mistake. When the governor vetoes, we have one situation, when both houses veto, we are closer to that situation, and I, therefore, think that the present amendment should not be supported.

CHAIRMAN MILLARD: Delegate Binkowski.

MR. BINKOWSKI: Mr. Chairman, ladies and gentlemen of the committee, Dr. Pollock has said most of the things that I would like to say, but I would like to call to your attention a couple of factors. Number 1, executive reorganization and the existing law, act 125 of the public acts of 1958, did not come in our law books over night. It was started, I think, back in 1952, through the efforts of the citizens research council, and Mr. Tilden Mason. It was only after a long struggle and a lot of luck that the law finally did pass.

The reason, I think, for executive reorganization is that the legislature did not act. Now, I am not criticizing the legislature, because I think that there are some valid points, perhaps, for the legislature not engaging in more executive reorganization. For example, there are a lot of political pressures on the legislature, and department heads who know the legisla-

tors well, and the programs, and so forth, can influence them to a certain extent. Also, I think you have to remember that our legislature is a part time legislature. In many instances, I don't think that they have the time to study executive reorganization, and so, in some cases, they are not as informed as they should be.

But I am not criticizing the legislature for not acting in executive reorganization. However, I think basically the reason for having this form is to place the responsibility with the executive, who should know all about these administrative agencies, and to allow him to initiate the programs, and therefore present them to the legislature. I think the reason for executive reorganization is simply economy and efficiency in government.

Now, I think all of you who have been in government know that we have a certain number of bureaucrats. We have people who build empires. They don't want these empires consolidated or eliminated. If you are going to go ahead, as we have done, and give the executive the responsibility of lowering appropriations, then I think you have to give him the responsibility in this area of his executive departments, so that he can eliminate or consolidate in the best interests of the state. And again, with the present senate, with a membership of 34, it is relatively easy, as it has been in the past, for a department head, who happens to know 18 senators, to go ahead and defeat a certain reorganization plan. And there is a small history in this, and I won't indulge in personalities, and I won't tell you the board which has effectively prevented itself from being consolidated in the interest of economy and efficiency, because of the fact that this certain head of department happens to know a large number of senators. I think, then, this amendment would defeat efficiency and economy in government and allow bureaucrats to continue on.

A third point I would like to call to your attention is that the legislature does appropriate funds, so that if they are unhappy with any extension of power, so called power by the governor, if the governor should create a new agency which they are dissatisfied with, they can effectively reduce the effectiveness of that organization. For these reasons, I oppose the amendment.

CHAIRMAN MILLARD: Delegate Bentley.

MR. BENTLEY: Mr. Chairman, I would just like to point out to the committee of the whole that my good friend from Ann Arbor has made the same honest mistake that the delegate from Detroit, Mr. Downs, made yesterday in referring to this matter, to this chart. The pending amendment, Mr. Chairman, has nothing to do with this chart. We have already approved, yesterday, a 2 year period for the legislature, and following that, a third 1 year period for the governor, by executive order, to reduce the numerous agencies on the chart into 20 principal departments. The pending amendment, Mr. Chairman, merely refers to future reorganization plans after this entire mass and maze and mess has been consolidated and reorganized, then it is a question of reorganization plans submitted by the executive to the legislature following that 3 years. But reference to this chart, as I pointed out to Mr. Downs yesterday, is not correct, and he certainly admitted it, and I would like to point the same thing out to my good friend from Ann Arbor this morning.

Finally, Mr. Chairman, with reference to the question originally raised by the lady from Grand Rapids, Mrs. Judd, I would like to say, without having the figures at hand, that over the years in the federal government, the history of approval or disapproval by congress with respect to executive reorganization plans, has been almost entirely the same percentages; even though—as I said earlier—over the years it has been relatively easier for the congress to disapprove, nevertheless, the ratio of approvals and disapprovals is about the same as when the reorganization act first went into law. Thank you.

CHAIRMAN MILLARD: The Chair recognizes the delegate from Adrian, Mr. Durst.

MR. DURST: Mr. Chairman and members of the committee, I would just like to speak to a portion of this problem. Mr. Bentley is quite right, that what we passed yesterday should effectively change that chart to quite an extent. Then the question is, what happens after that. I think to this point it is pertinent to note the experience that the state of New York has had, which has had this type of procedure for 30 years now. Dr. Ronan who, I explained to you yesterday, was Governor Rockefeller's administrative assistant, gave us this testimony. Now, in New York, when they made 18 departments, they created one department which they called the "executive department," which was immediately under the governor and was to perform those services which he was most actively interested in. Dr. Ronan said:

> The executive department became a grab bag, because no one really wanted to face up to the hard decisions as to where else to put them.

then he says:

> Then we have new agencies created. These were put into the executive department. As a result, the executive department became an unwieldy agency, the governor being the nominal head of it and the secretary to the governor being his deputy in connection with it. But many of these activities had, really, no relationship to the governor's executive power and the exercise thereof. And one of the things which will without question be on the agenda in our state, now that we have passed the constitutional amendment allowing the transfer of functions and the change in names of departments, will be to disestablish the executive department, create executive offices of the governor for those functions which, back in 1927, they had thought belonged to the governor.

What I am really saying here is, we should at least consider the desirability of allowing the governor as free a hand as possible to keep this thing in order, because, as has happened in New York, the legislature is not equipped—apparently, anyhow—to make what administrators, anyhow, would call a good decision as to where these agencies should go. As in New York, as the legislature created new departments, they lumped them all into one department.

As Dr. Pollock has pointed out, the legislature has always had the power to relocate these things and to create an efficient administrative organization. It is difficult, as I see it, for them to do so. And I think that the majority report from the committee places enough power in the legislature to keep this thing from becoming an instrument of oppression, if you will, on the part of the governor, and yet gives to the governor the power which he needs to keep an efficient organization, and I urge you to defeat the minority report amendment.

CHAIRMAN MILLARD: Delegate Wanger.

MR. WANGER: Mr. Chairman, members of the committee, it is quite clear that efficiency and not politics should be the guide and the motivation behind these executive reorganizations. It is also clear that we need to have some kind of a check upon them, as the committee in its proposal recommends when it allows the legislature to have any voice in this regard.

Now, it seems to me that the merit of the proposed amendment is this: you see, under the proposal as set forth in the committee report, if the governor or his party have strong control of either house, or perhaps just some of the committees thereof, he could ram through a politically motivated reorganization.

It is true that there are reasons on the other side, but let us remember this very simple fact, that reorganization can be used for political purposes and the temptation may always be there, to some extent, to make such use of reorganization. I, therefore, suggest that, as a practical matter of political management and efficient management, considered side by side together, as they must, it would be best to adopt this amendment to get around that difficulty.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Grand Rapids, Dr. DeVries.

MR. DeVRIES: Mr. Chairman, I would like to direct a question to Mr. Bentley through the Chair, if I may.

CHAIRMAN MILLARD: Mr. Bentley, if you care to answer.

MR DeVRIES: Mr. Bentley, I am trying to recall, in the last 5 years, any significant administrative reorganization that has taken place under public act 125 of 1958. It seems to me,

as I recall this, that there has been no significant administrative reorganization resolution approved by the legislature. Could you comment on that?

MR. BENTLEY: Mr. Chairman, I think that probably one of the former members of the legislature would be in a better position to answer Dr. DeVries' question than I. It is my impression that many of the proposed reorganization plans have been defeated in the legislature, insofar as the question of legislative disapproval is concerned, but that a number of them have been passed by direct action of the legislature, but I would rather have someone like Mr. Hutchinson comment, because I am sure he has more facts and figures in this case than I could possibly have.

CHAIRMAN MILLARD: Would you like to have Mr. Hutchinson answer?

MR. DeVRIES: Yes, I would, please.

CHAIRMAN MILLARD: Mr. Hutchinson, would you care to answer?

MR. HUTCHINSON: Mr. Chairman, one reorganization which I think was significant and of some importance that has come about in the last 5 years has been the transfer of the checkwriting function and so on out of the office of the auditor general and into the office of the state treasurer. We have moved all of that voucher operation out of the auditor general's office in order to make that office more truly a postaudit function. This, I think, was significant.

I would have to look at the list. Back in 1959, I believe it was, Governor Williams submitted 7 or 8 of those plans and—well, someone has very kindly given me a list of them. The first one was the transfer of warrant functions from the office of the auditor general to the state treasurer. That has been accomplished. I think that was significant. The commodities food surplus distribution section was transferred from the department of administration to the department of social welfare. The motor fuel tax collection functions were transferred from the department of state to the department of revenue. The office of hospital survey and construction, which theretofore had been an independent office under the governor, has been transferred to the department of health. The TB sanitarium commission, its functions, were transferred to the department of health.

As I recall these plans, the only one that was rejected by the legislature was a plan to abolish the state board of alcoholism, and transfer its functions to the department of health. Frankly, that didn't come about because of the concern of the organization known as alcoholics anonymous. They didn't want it transferred. They were afraid that its operations under the department of health would be tucked under, tucked under so far and so deep that it would be forgotten or absorbed or something, and that the importance of that program would be lost. Consequently, the legislature did not go ahead with that one. They went ahead with the rest of them.

Now, these are the original plans. I am answering your question, Dr. DeVries, and if I have answered it, I won't pursue this any further until I can obtain the floor under my own recognition.

MR. DeVRIES: Mr. Chairman and Mr. Hutchinson, you haven't answered my question. I think, in my own mind, that there hasn't been any significant administrative reorganization in the last 4 years, and I think the 2 reasons for it: basic legislative inertia—and perhaps this comes from the fact that legislators are part time and also because they lack an adequate staff—but I think a more important reason for not getting administrative reorganization in the legislature is in the tendency to trade among legislative supporters for various agencies, and to prevent their favorite agencies from being consolidated or reorganized with others. And this always effectively blocks reorganization, particularly when it is easy to get a majority vote. Therefore, I would urge the defeat of the Bentley amendment. It seems to me if you try to depend on the legislature to accomplish rational administrative reorganization you are never going to get it done.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Fennville, Delegate Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I think that there is an impression being cast upon this floor that the legislature has done nothing in its history and that there has never been any reorganization. I would remind you that back in 1921—which I suppose you will say was another age and all that—back in 1921, Governor Groesbeck obtained a very significant governmental reorganization in Michigan after only a 6 weeks effort in the legislature. He had that completed by the middle of February, in a session which commenced the first part of January.

I am reminded, as I think we all should be, that during the '30s and the '40s, the legislature created and then reorganized significantly, the department of welfare, the department of mental health and some others; and I recall, very vividly, back in 1948, the creation of the department of administration, and that was a very significant reorganization in Michigan's executive, because it gathered together all of the so called "housekeeping functions" of government under a single department, the department of administration, and those housekeeping functions included such significant things as budget and accounting, and property management, and so forth. Then the history since public act 125 of '58—if that is what it is—that government reorganization act, which I remember when it passed in the legislature—I remember that quite vividly, too—since that time all of this effort and emphasis has been upon these reorganization plans. I call your attention to the fact that—at least while I was in the legislature—while I objected very strenuously, as a matter of principle, to permitting the governor to reorganize on his own motion, that while I was a prime mover in getting the veto of the senate as to each and every one of those plans, I also introduced a bill to accomplish, by legislative action, every one of those proposals, and I am proud to say that all but one of them passed and became law.

What has happened in 1961 and '62, I am no longer part of the administration. I can assure you that I believe that the legislature should positively consider—and I say positively consider and not negatively consider, as you would have them do—but positively consider these recommendations for reorganization, but I also invite your attention to the fact, as Mr. Binkowski has pointed out, that there are strong political considerations, and they aren't ulterior pressure groups, but they are folks, well, for instance, like the alcoholics anonymous, who convinced a sufficient number of senators that the program of the board of alcoholism would probably be tucked in under the department of health so deeply that its program would, if not ignored, not be given the light of public attention to which they felt it would be entitled at this particular time, and so the legislature didn't want to go along with that one. There are those considerations that do come up, but simply because the reorganization plan is vetoed, I submit to you, doesn't prove or should not even be inferred that the legislature is obstructionist or nonprogressive. It is simply that, after all, while some folks might think this is a wonderful idea, other folks have just as strong opinions on the other side.

It isn't a case of one party being all in the right, and the other group being all in the wrong so some of these things will find favor and some of them will not. I have been told by the members of the governor's committee working on these reorganization plans that, as time goes on, and they attempt to get into more major fields, their task becomes infinitely greater and more difficult, and the likelihood of achievement is much harder. That isn't because people are objecting to economy or anything of the sort. At the base of this thing is what I said before, a fear—and a genuine fear—of the concentration of political power. If you are going to concentrate—and it is a tremendous political power, even though Dr. Pollock thinks I exaggerate; I do not believe I do, I feel very strongly about this, and I want to, as best I can, convey to the delegates here the seriousness of vesting in a single man, who is the head of a political party, this tremendous political power to completely reorganize his executive branch of government to suit his political purposes. I am not here to say that that would customarily happen, but I can envision that it might. It was such kinds of concentration of political power in the hands of people overseas in Europe which completely destroyed liberty.

I don't think that the people of Michigan would let it go that far, knowingly, but I would hate to see you write into our state constitution a system where constitutionally such strange things could be brought about under the guise of governmental reorganization.

CHAIRMAN MILLARD: Delegate Binkowski.

MR. BINKOWSKI: Mr. Chairman, ladies and gentlemen of the committee, Dr. DeVries in particular, there has been no executive reorganization plan submitted to the legislature which has not been defeated. In other words, act 125 of 1958 has never been implemented. I think that this is very significant, and I gave the list to Mr. Hutchinson regarding those first 7 reorganization plans, and as he told you, they were introduced and they were defeated in the legislature only then to be placed in bill form and passed by legislation. I don't know what the reason is. Senator Hutchinson indicated it was his philosophy—he doesn't believe in the executive reorganization method. But, I submit to you that there must have been some reason why the legislature did not want to accept the governor's executive reorganization plan by defeating it, and then by going ahead and passing the very same plan, word for word, in the form of legislation. They still can do this.

Now, when Mr. Tilden Mason from the citizens research council wrote for the National Municipal Review regarding the executive reorganization plan here in Michigan, he entitled this article, Miracle in Michigan, and I think he did this very wisely, because I think he felt, as most people did, that it was a miracle that this legislation passed in the first instance, and I think that he felt—perhaps he didn't feel—I feel, of course, that it would be a miracle if it worked, and it hasn't worked so far, and I submit to you that this amendment would continue to eliminate the effectiveness of implementing the executive reorganization plans and methods. I think if you are interested in economy and efficiency, you would go ahead and defeat this amendment.

CHAIRMAN MILLARD: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, I merely want to add a postscript following Delegate Hutchinson's remarks. I have been a member of this committee on reorganization since its inception, and it is only half the story to say what has happened to what has been submitted.

There is such a thing as preventing the birth of good ideas, and when you look at the legislature of Michigan and then contemplate how far you think you can get, as a realistic individual, you don't submit things that haven't some chance of getting through. It is a good deal like the question of advice and consent or confirmability. It isn't just a question of checking the power, you check it, sometimes, in its inception. You prevent a good idea from even getting under way.

I can assure the delegate from Fennville that on this reorganization committee, which is a bipartisan committee, and the committee which has tried to implement this act, that this committee has been much more affected by this negative influence that they are facing all the time, and therefore, all the plans that have been put through thus far—have been proposed thus far—have been proposed because they are so really minor and innocuous that it is inconceivable that the senate or the house could veto them.

CHAIRMAN MILLARD: The gentleman from Grand Ledge, Dean Doty.

MR. DEAN DOTY: Mr. Chairman and fellow delegates, I rise to support this amendment and I am rather surprised at some of the objections and rather surprised at some of the people who are raising them. We all recognize that the democratic legislative process is slow and perhaps cumbersome. I think you see it on a township level, you see it in city government, you see it in the county. You see it here. If I have ever seen a body that is a good example of what I am referring to, it is here. I think it is time we got off our feet and went to work. I was rather surprised at Dr. DeVries, I think he cut his teeth over there.

CHAIRMAN MILLARD: The delegate from Stanton, Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, I think when Dr. Pollock said that the issue was a very simple one, whether we want reorganization or whether we don't, he had not got down to the fundamental issue. The fundamental issue is whether we are going to have 3 branches of government—coordinate branches of government—or whether we are going to keep on nicking away at one until we have it gone entirely. Every step we have taken, as I can recall in this convention, has been to nick something out of the legislative branch of government. We did it yesterday. We are talking about doing it again today. What Senator Hutchinson said about the use of political power in this matter of reorganization isn't entirely a matter of theory. It isn't a matter of theory with me. I can remember, in the senate, when the governor proposed and the legislature followed him in the complete abolition of a department and its reorganization for the one and only purpose of getting members of one party off the board and putting on the members of the other. I wouldn't go along, and for a time I was regarded as an outlaw in my party, and I think Mr. Chase will remember that I was the only member of the party that wouldn't stand for it. Oh, it is used, it has been used and it will be used again.

A lot of the argument that we hear here, if followed to its logical conclusion, would result in our having no legislature at all. And there are some other assumptions that we make over and over again, and one of them is that everything the governor does is for the best interests of the people; everything that the legislature does is in the way of obstruction. After a lifetime in government, I have no such illusions whatsoever. Many of you disagree with this, but I am not talking from a book nor from hearsay. The most partisan spot, the most political spot in your state government is the governor's office, and it doesn't make any difference whether he is a Democrat or a Republican. You will wait a long time and look a long way before you find an exception to that rule. That has been true in the past. It will be true most of the time in the future.

This whole thing is a legislative field. We have gone a long way in letting the executive branch of government come into it. Certainly we have gone far enough so that Mr. Bentley's amendment ought to put a limit on the extent to which we go.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Charlevoix, Mr. Shanahan.

MR. SHANAHAN: Mr. Chairman, fellow delegates, much of what I was going to say has been covered in what Delegate Brake just mentioned. I have tried to analyze this and it seems to me that it comes to whether we wish to strengthen or preserve the strength of the legislature, or whether we wish to strengthen or extend the strength of the executive. The tendency has been to strengthen the executive. We have the executive administrative boards, we have all sorts of things that are in the executive department, and when you analyze what happens, you can have 2 movements. Today, in Michigan, we apparently are having a movement for strengthening the executive, and that makes me very uncomfortable, because you get an all powerful executive, whether it is a king or an emperor or just a plain dictator, you have a dictatorship. It is the complete subjugation of democracy. On the other hand, when the legislative gets all powerful—we have examples in the world of that—democracy is not destroyed, it is preserved. The one that comes quickly to mind is the house of commons in England, where the house of commons has usurped the executive and you still have democracy.

I cannot vote for anything that would be voting against democracy, against the opportunity of the people to express themselves, and they can express themselves much more readily through the legislature than they can through the governor. I am for this amendment.

CHAIRMAN MILLARD: Dr. DeVries.

MR. DeVRIES: Mr. Chairman and members of the committee, it is true that I cut my teeth at the legislature over a 5 year period, and for this experience I am very grateful. One of the things, however, that I learned about the legislature is that it needs more help and we have to strengthen the legislative process itself. I think we can do this through the removal of earmarking, better staff, higher legislative salaries,

full time legislators and so on. My inferences on their behalf are not meant as criticisms, but I think are intended to strengthen the process.

I rise to ask Mr. Bentley one more question, if I may, Mr. Chairman, and it is—

CHAIRMAN MILLARD: If Mr. Bentley cares to answer.

MR. DeVRIES: Is there anything in this proposal which prevents the legislature from initiating its own administrative reorganization plan?

MR. BENTLEY: Mr. Chairman, the answer to the gentleman from Grand Rapids is that I see nothing in here that would prevent the legislature from initiating its own reorganization plans. As I understand the proposal and the language, and the sense of it, it merely applies to executive reorganization proposals submitted by the governor. It says in line 27, "Subsequent to such allocation," referring to the first 3 years, "the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration." I see nothing in that language that would prevent the legislature from taking any action in this field it so desired.

MR. DeVRIES: In other words, Mr. Bentley, if the legislature wanted to initiate reorganization plans within the executive branch, they have the complete freedom to do so?

MR. BENTLEY: As I understand the language of the proposal, Mr. Chairman, Dr. DeVries, the proposal is silent in this and I assume that silence gives consent.

CHAIRMAN MILLARD: The gentleman from Jackson, Delegate Karn.

MR. KARN: Mr. Chairman, members of the committee, there still seems to be some confusion regarding this amendment and the possibility of this amendment interfering with the reorganization of the departments initially. This has been stated very clearly by Mr. Bentley and others. Mr. Binkowski has left the hall, I believe, but his last statement seemed to infer that this amendment might interfere with the original reorganization of these departments. Just so that there can be no question about it, I again would like to read, starting with line 21, which was discussed and passed yesterday. It says,

> The allocation of departments by law pursuant to this section shall be completed within 2 years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make such allocation.

That paragraph covers the initial reorganization of the departments that Mr. Bentley has referred to so many times. Following this:

> Subsequent to such allocation, the governor may make changes in the organization of the executive branch . . .

and it is this following part to which the amendment refers. The amendment does, in no way, have anything to do to hinder or otherwise, the reorganization in the first instance.

CHAIRMAN MILLARD: Judge Leibrand.

MR. LEIBRAND: Mr. Chairman, may I inquire, through the Chair, of Mr. Martin?

CHAIRMAN MILLARD: Mr. Martin, do you care to answer?

MR. LEIBRAND: Delegate Martin, Chairman Martin, referring now to that part of Committee Proposal 71, which we are considering, beginning on line 27, was it the intent of the committee that the governor in office at the time any legislative reorganization plan was passed by the legislature, could make such changes in the reorganization as he desired, or was it the thought of the committee that all subsequent governors throughout the life of this constitution, could make changes?

MR. MARTIN: Judge Leibrand, this involves 2 processes. The preceding 2 paragraphs, as has been commented on by some of the delegates, deal with this problem of initial reorganization. After that 3 year period is completed, in which first the legislature, and then if the legislature does not do it, the governor has a chance to work out a general reorganization plan, then you have, into the future and for the future, a continuing reorganization proposal which is different from that as to this initial reorganization, and this continuing reorganization authority, which rests both in the governor and the legislature. After this initial reorganization is completed, then the governor may propose plans and the legislature is given the veto power on those plans as is provided here. And it is that later process of reorganization proposals coming from time to time, from year to year or 10 years to 10 years, that we are dealing with here. Does that answer your question?

MR. LEIBRAND: Mr. Chairman, may I inquire further?

CHAIRMAN MILLARD: You may.

MR. LEIBRAND: What I am trying to get at, Mr. Martin, is this: could each successive or subsequent governor reorganize these departments according to his personal interests or the interests of his party, and would these successive reorganizations stand unless vetoed by a majority of the members elect of both houses of the legislature? Would that go on into the future every time we have a new governor?

MR. MARTIN: Certainly. Any governor can propose a plan of reorganization subject to legislative veto.

MR. LEIBRAND: By a majority of the members of both houses?

MR. MARTIN: That is correct.

MR. LEIBRAND: Mr. Chairman and fellow delegates, I support the Bentley amendment.

CHAIRMAN MILLARD: The Chair recognizes the delegate from Detroit, Mr. Madar.

MR. MADAR: Mr. Chairman, fellow delegates, I don't believe there is too much to debate here. You just have one thing before you and that is this: whether or not the administrative department should set up the administrative end or whether it should be the legislative. Mr. Brake states that we have the different branches of government. We have. Up to this point we have had 3. You have your judicial, your executive branch, and you have your legislative branch. And in this constitution, I believe that we are also adding a fourth, the educational.

Frankly, I say this: that I can't see why you would want to take out of the hands of the executive branch the setting up of the administration of your government. Businessmen operate or try to operate a good businesslike administration. Politicians, on the other hand, want these things in the hands of the legislators where they can manipulate and maneuver. I say this: for the sake of the people of the state of Michigan, give the administrative end the right to do this and if it isn't done properly by the governors, believe me, those people who elected them will also throw them out. Let's get good business administration in the state of Michigan.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Marshall, Mr. Hatch.

MR. HATCH: Mr. Chairman and ladies and gentlemen of the committee, I would like to address myself to some of the inconsistencies of the arguments propounded by the most outspoken opponents of this amendment. First of all, Mr. Binkowski stated that of the reorganization plans that have been submitted under the act of 1958, none have been adopted by the legislature, but then he did go on to say that most, if not all, have been enacted by legislation. It doesn't seem to me that this is a very good argument against continuing, in the constitution, essentially what the statute now provides. If Mr. Binkowski is concerned solely with who receives the credit for a reorganization, this might be a valid point, but as far as I am concerned, the important thing is that there was reorganization. It also points out the fact that the idea initiated with the executive, but the legislature, realizing the validity of the good idea, used its normal processes in adopting that reorganization.

Mr. Binkowski has also pointed out that the legislature is only a part time body and therefore is not qualified to handle reorganization plans. Delegate DeVries pointed out that the legislature didn't have enough help, and I believe Dr. Pollock testified before the legislative organization committee that the legislature should be full time, that they should have a minimum salary set forth in the constitution. I would merely point out that if they are only part time now, if we are going to

strengthen the legislature, the way to do it is not to take away the powers that they have, but to at least leave those powers that they do have.

Now, before our committee, we had many witnesses who recommended that the executive branch of government should be strengthened, but they all consistently and at the same time said that if you have a strong executive, you also need a strong legislature. I would point out that the only place in which this reorganization requires the disapproval of both houses of the legislature is where the reorganization would require the force of law. In other words, if it is merely a shifting of a few administrative bodies within the executive branch, which does not involve a changing of functions or a creation of new functions, the governor can do this, or the head of a department can do this. It is only where functions are changed or new ones are created by a reorganization plan that they would require the force of law and therefore the disapproval of the legislature. Although Mr. Madar points out that the administrative branch of government should be charged with setting up the administration, I point out that what we are talking about are those things which require the force of law, and this is properly a legislative function. I therefore support the amendment.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Detroit, Mr. Sterrett.

MR. STERRETT: Mr. Chairman, members of the committee, I have heard various people speak this morning on this debate and also yesterday, and it has been pointed out to me that the reorganization in our state government has been very negligible. Also, it has been pointed out that in our committee proposal the legislature has the right to reorganize, as they always have had. This amendment before us now weakens the executive power, and also I would like to point out that it considerably weakens the legislative power. The committee proposal, as it now stands, allows for a strong legislature to take the initiative, and if this is not done, it allows for a strong governor to go ahead after the legislature, possibly, did not do anything. In my opinion, this is a good balance for government.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Ionia, Mr. Powell.

MR. POWELL: Mr. Chairman and members of the committee, I hesitate to prolong this discussion, but yet it is something in which I have had some part during the last 4 years. In the spring of 1958, the organization which I was then representing favored the idea of executive reorganization. I went before the house committee on state affairs, along with such esteemed gentlemen as Dr. Pollock, and we testified in favor of the bill and were somewhat surprised that it was reported favorably from that committee and adopted in the house, and it went over to the senate, and I knew of the position of our esteemed vice president, Senator Hutchinson, and I didn't think there was much chance we could get it through over there, but to make a long story short, we did, and I think the governor thought that I had a little part in it, because he gave me the pen, or at least one of the pens with which he signed that act at that time, and then went on and put me on the advisory committee, along with Dr. Pollock, and I think a score of other ladies and gentlemen, and I think we held many meetings and worked on the development of these ideas. I am still a member of that advisory committee. It is true that none of those plans were accepted by the legislature in the form in which they were presented but, as Senator Hutchinson has said, those ideas were incorporated into legislation which, with the exception of the one dealing with the board of alcoholism, were adopted. So I think the whole program showed that it had some merit.

We are continuing to function. I have attended some meetings of the committee and subcommittees in the not far distant past. But why I stand here is to say that the Bentley amendment brings this program in line with the existing statute, and I certainly feel that we should adopt the Bentley amendment before we write this into our constitution.

CHAIRMAN MILLARD: The question is on the Bentley amendment. Mr. Martin.

MR. MARTIN: I think we are about ready to vote on this and I only want to make one or two rather brief comments to the effect that the committee gave this question the most careful consideration that it knew how. We considered the Bentley amendment, we considered the amendment of the minority, which is an amendment to require a veto by 2/3 of both houses, and we arrived at the committee position which is a veto by a majority in each house, because we believed that this was the right place to be if we wanted to get some executive reorganization and if we did not want to have the legislature in a position to block or to prevent any legislative reorganization. It is a pretty good test of the fact that we are not far wrong that we have the extreme position on the one side, that either house should be able to block a governor's proposal, and on the other side, we have an amendment that only 2/3 of both houses should be able to. The committee position is right between those extremes.

I can only say this, and I say it from experience, and I know that Mr. Brake and Mr. Hutchinson know that this is true, and certainly Mr. DeVries does, because he has made the point that it is the most difficult thing in the world to get a plan for executive reorganization of a department through the legislature or approved because, as has been said, every agency has its protectors in that body, and the bigger the agency, the more protectors there are. Even the little agencies have protectors who will trade their votes for the votes of somebody else, so that you never get a satisfactory consideration of the merits of these questions.

That is the real reason why the committee came out where it did. It hasn't made it impossible to get these plans through and it hasn't made it too easy to get them through. It has ended up on a middle position which the committee believes is the right position. I hope that the committee report will be accepted, that the Bentley amendment will be defeated, and that the amendment of the minority in the general minority report here, calling for 2/3 of both houses, will also be defeated. Thank you, Mr. Chairman.

CHAIRMAN MILLARD: The question is on the Bentley amendment. A division has been called for. Is there support? A sufficient number is up. All in favor of the Bentley amendment will vote aye, those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Bentley, the yeas are 54; the nays are 71.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Pursuant to minority report C of Messrs. Marshall, Greene, Kelsey, Perlich, Wilkowski, Miss Hart and Mrs. Daisy Elliott,

Mr. Marshall offers the following amendment:

1. Amend page 3, line 5, after "concurred in by a" by inserting "2/3"; so the language will then read:

> . . . unless disapproved in both houses by a resolution concurred in by a 2/3 majority of the members elect of each house. These orders shall become effective at a date thereafter to be designated by the governor.

CHAIRMAN MILLARD: The Chair recognizes the proponent of the amendment, Mr. Marshall.

MR. MARSHALL: Mr. Chairman, fellow delegates, the purpose of offering this minority report amendment is, obviously, to make it easier for the governor to effectuate the reorganization. If we are to have reorganization, I think the executive must have a lot of latitude to do this, and the reason for this is because we have a long record of irresponsibility on the part of the legislature, particularly when it comes to this type of action or confirmation. I am not going to go into that at this time. I might prefer to hold the arguments I have on this question when we actually come to the consent and advice of the senate. But if there is any doubt in any of the delegates' minds as to this charge of irresponsibility, then I think all you have to do is read this mornings' Free Press. I urge support of the minority amendment.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, the committee opposes this

amendment since it makes it impossible, we believe, for the legislature to defeat a proposed reorganization plan. We are opposed to the amendment.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Gladwin, Mr. Hubbs.

MR. HUBBS: Mr. Chairman, my fellow delegates, I would like to make a brief reply to a word that Mr. Marshall just said. In 2 sentences, he accused the legislature of a long record of irresponsibility. I would like to submit to you here that if the legislature is irresponsible, that it is the people of Michigan who have been irresponsible. We elect the legislator, and he is, supposedly, a champion of the people in a democracy. If he would like to have the legislature responsible, let's ask him to get his people to elect responsible people.

CHAIRMAN MILLARD: The question is on the Marshall amendment. Please confine your discussion to the Marshall amendment. Mr. Marshall.

MR. MARSHALL: I am trying to weigh my words, because I don't care to get into a debate with our distinguished chairman of the day.

When I made the statement, I don't agree with our committee chairman that it makes it impossible for the legislature to veto the governor's reorganization plan. I do say that it makes it somewhat more difficult for the legislature to veto it than it would if it required a majority vote, and that was precisely what we intended to do by offering this amendment, to make it more difficult. But, at the same time, to give the checks and balances.

I think this is on the amendment, in replying to the remarks of Delegate Hubbs when he said that I was a great exponent of the people speaking, that is true. But, in answer to Delegate Hubbs, to your question about the people electing the legislature, if that was true in this state, that the people did truly elect the legislature, then I couldn't agree more with you, and that is one of the reasons that this amendment was offered by the minority, to require a 2/3 majority in order to block the governor's reorganization plan, because the present legislature is not representative of the people, nor is the senate, in particular, elected by a majority of the people. I think this has an effect upon the amendment before us, and under this amendment we will insure that the governor will have the authority to operate in this area, to do those things that are necessary. We will also insure the checks and balances — that the legislature will have a veto, too. The only thing that we do, and it is intended to do that, is to make it more difficult for the legislature to reject a reorganization plan.

CHAIRMAN MILLARD: Thank you, Mr. Marshall, for sticking to the amendment.

MR. MARSHALL: Thank you, Mr. Chairman.

CHAIRMAN MILLARD: Delegate Sterrett.

MR. STERRETT: Mr. Chairman and members of the committee, it is interesting to see the split vote of the majority party on the last amendment. I would like to see what happens on this one, for both parties. However, on this amendment I would oppose it, because this would take the balance that we have out of the committee proposal. This would make the executive branch, the governor, far too strong, and would weaken the legislative power. In the committee proposal, the legislature has adequate power, as well as the governor having adequate power. I oppose this amendment.

CHAIRMAN MILLARD: Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, I would like to direct a question to Mr. Marshall.

CHAIRMAN MILLARD: Mr. Marshall, if you care to answer it.

MR. G. E. BROWN: Mr. Chairman, Mr. Marshall, do you think that this provides an adequate check on, say, executive reorganization, a free for all on executive reorganization?

MR. MARSHALL: I think it provides an adequate check, considering the way that the present legislature is constituted, and the way that it will obviously be constituted under the deal that was made here.

MR. G. E. BROWN: Mr. Chairman, Mr. Marshall, another question: do you know how many times, say, in the last 10 years, 12 years, 14 years, that the executive veto has been overridden by the legislature by a 2/3 vote?

MR. MARSHALL: I don't think I can answer that question without doing some research on it. I might ask you, do you?

MR. G. E. BROWN: I think once, Mr. Marshall.

CHAIRMAN MILLARD: Wait a minute, now. Let's not get into an argument.

MR. MARSHALL: Thank you, Mr. Chairman.

CHAIRMAN MILLARD: The question is on the Marshall amendment. All in favor will say aye. Opposed, no.

A DELEGATE: Division.

CHAIRMAN MILLARD: A division has been called for. Is there support? A sufficient number is up. All those in favor will vote aye, and those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Marshall, the yeas are 32; the nays are 85.

CHAIRMAN MILLARD: The amendment is not adopted. Are there any more amendment on the secretary's desk to paragraph 4?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN MILLARD: Are there any amendments to the body of paragraph 4 of section b of Committee Proposal 71, if not, it will be agreed to and we will proceed to the next paragraph. Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, before this particular paragraph is declared to have passed, I want to raise again, so I understand clearly, the apparent intent of this committee, because I think I would take issue with what I understand to be the statement of Mr. Bentley, I believe, with regards to the power of the legislature to pass laws to organize or reorganize anything in the executive branch, after this language is found in the constitution. I understood him to say that since the constitutional provision was silent on the matter, he assumed the legislature would continue to have the power to pass laws to provide, for instance, that there should be a department of space exploration or something like that, and that would be a department. This, I am talking about, in the future. I don't know that I am convinced of that.

I am inclined to believe that the courts might just as likely reason this way: that here is a constitutional provision spelling out the manner in which the executive branch of government is to be organized subsequent to this initial reorganization and I am afraid that, as this language now stands, the courts might very likely say that this encompasses the whole field, and that in the future the legislature might provide that the executive branch of government should do thus and so, but it would be left up to the governor, by an executive order, to determine in what department, in which of the 20 principal departments this function should lay. I don't believe—I will put it this way, I —

MR. WOOLFENDEN: Mr. Chairman, a point of order.

CHAIRMAN MILLARD: Mr. Woolfenden, your point?

MR. WOOLFENDEN: I believe there is nothing before the house. If Senator Hutchinson has an amendment to which he wishes to speak, I think he should submit it. Otherwise, I believe there is nothing before the house.

MR. HUTCHINSON: Mr. Chairman, may I speak to the point of order?

CHAIRMAN MILLARD: All right.

MR. HUTCHINSON: I understand that there is something before the house. I asked the Chair, before he declared this particular paragraph to have passed, that I might speak upon it. I submit that this paragraph is before the house.

CHAIRMAN MILLARD: The Chair thinks you are correct, Delegate Hutchinson. The paragraph is still before the house.

MR. HUTCHINSON: And so, if I might perhaps, just conclude upon the note that I think that, unless somebody who has done a lot of legal research on this can convince me to the contrary, this provision should also go on to spell out that the legislature's power to create additional subdepartments or departments, or something, and to determine in which of the principal departments the function should rest, would not be vitiated by this language, and I am greatly concerned that it has been

completely vitiated, as matters now stand, and I am in complete opposition to it. I think that this is a revolution in the governmental structure of Michigan, and I hope that this kind of a revolution doesn't come to pass.

CHAIRMAN MILLARD: Are you prepared to submit an amendment then, Mr. Hutchinson?

MR. HUTCHINSON: I have no amendment drafted at the moment.

CHAIRMAN MILLARD: Do you wish time to draft an amendment?

MR. HUTCHINSON: Yes, I will draft an amendment.

CHAIRMAN MILLARD: You can, of course, submit this to the body of the proposal when it finally comes — before it is passed finally. Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I make no pretense at being a constitutional lawyer, indeed, any type of lawyer. Neither do I make much of a pretense of being any type of a political scientist. In view of Senator Hutchinson's concern that the omission of any specific language giving the legislature power to initiate reorganization law, I would strongly support such an amendment, if he cares to offer it at an appropriate time. I say, as my own opinion — I repeat, as my own opinion — that I still think that where reorganization requires the force of law, the legislature would have that authority to initiate the law, as well as having the plan come from the governor. But, as I say —

CHAIRMAN MILLARD: Mr. Bentley, the Chair thinks you better reserve your argument until there is something before the house.

MR. BENTLEY: I understood we were still speaking on the paragraph, Mr. Chairman. I am sorry. I will be very brief, Mr. Chairman. I will say that I will defer to Mr. Hutchinson's eminent knowledge of constitutionality in this field, and will support any such amendment, if he cares to offer it in the future.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I don't want to debate this question at this time —

CHAIRMAN MILLARD: The Chair doesn't want it debated now because there is nothing before the house.

MR. MARTIN: That is right. I don't want to debate it. I do want to differ with Mr. Hutchinson, and I will present that at the time that an amendment is presented, if he desires to present an amendment.

CHAIRMAN MILLARD: If there is no further amendment to paragraph 4, it will be agreed to and we will proceed to the next paragraph. The secretary will read.

SECRETARY CHASE: Paragraph 5:

[Paragraph 5 of section b was read by the secretary. For text, see above, page 1766.]

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, the purpose of this paragraph, I think, is quite clear, simply providing, of course, that where the head of a principal department is a single executive — or, the head of the principal department shall be a single executive, unless otherwise provided in the constitution or by law, and providing that principal departments shall be headed up by the secretary of state, state treasurer and attorney general. They are the only 3 we have mentioned, and they would head principal departments.

The next clause, at the beginning of the next sentence, is proposed to be stricken by an amendment which is pending on the secretary's desk, because that should be inserted at the end of the proposal, along with other material indicating when state officers will succeed, or how long the terms of existing officers will continue if they are affected by changes in this constitution. That will be removed and put in at a later date.

Also, it is going to be necessary, since we have now proposed to elect at least 2 state officials, to provide that when a single executive, other than an elected official is the head of a principal department, shall — he shall be nominated by and with the advice and consent of the senate, appointed by the governor, and shall serve at the pleasure of the governor. There is an amendment to effect that change, also, on behalf of the committee. I think I have no further presentation to make on this at this time, but there is a minority report, which we will want to debate at some length.

CHAIRMAN MILLARD: Mr. Martin, did you say that those amendments were committee amendments?

MR. MARTIN: Yes, they are committee amendments.

CHAIRMAN MILLARD: Committee amendments will take priority. If you have them presented —

MR. MARTIN: I believe the secretary has them.

SECRETARY CHASE: Mr. Martin, on behalf of the committee on executive branch, offers the following amendment to paragraph 5:

1. Amend page 3, line 13, after "attorney general.", by striking out the balance of the line, all of line 14, and through "amended,", in line 15; so that the sentence will begin in line 15, "When a single executive is the head of a principal department, he shall be nominated and," and so forth.

CHAIRMAN MILLARD: The Chair will recognize Mr. Martin.

MR. MARTIN: I think I have already explained this, Mr. Chairman. It is just to remove this particular question of what happens as to an existing executive who is holding his office when the constitution comes into effect. We would like to remove that and put it along later in the proposal.

CHAIRMAN MILLARD: The question is on the committee amendment. Mr. Faxon requests that the amendment be read.

SECRETARY CHASE: Mr. Martin, on behalf of the committee on executive branch, offers the following amendment:

[The amendment was again read by the secretary. For text, see above.]

CHAIRMAN MILLARD: All those in favor of the amendment will vote aye. Opposed no.

The amendment is adopted.

SECRETARY CHASE: Mr. Martin, on behalf of the committee on executive branch, offers the following amendment:

1. Amend page 3, line 15, after "executive" by inserting a comma and "other than an elective official,"; so that the sentence will read:

> When a single executive, other than an elective official, is the head of a principal department, he shall be nominated and, by and with the advice and consent of the senate, appointed by the governor . . . .

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: That is simply a corrective amendment, Mr. Chairman, to take account of the fact that we have now included the attorney general and secretary of state among the elective officials.

CHAIRMAN MILLARD: You have heard the amendment. All in favor will say aye. Opposed, no.

The amendment is adopted. Is that all the committee amendments, Mr. Secretary?

SECRETARY CHASE: All the committee amendments.

CHAIRMAN MILLARD: Will you proceed, then, with the minority report?

SECRETARY CHASE: Pursuant to minority report C of Messrs. Marshall, Greene, Kelsey, Perlich, Wilkowski, Miss Hart and Mrs. Daisy Elliott,

Mr. Marshall offers the following amendment:

1. Amend page 3, line 11, after "law.", by striking out the balance of the paragraph.

CHAIRMAN MILLARD: The Chair will recognize the proponent of the minority report amendment, Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, the minority report amendment part of this has been covered by the action that was taken in section a. At this point, I am not quite prepared, frankly, because I was trying to come up with some notes that I had, and I couldn't seem to find them on my desk, so I will pass over it for just a few minutes, if you will give me time to find the notes that I was looking for.

CHAIRMAN MILLARD: Anyone else want to speak on the minority report amendment? There are other proponents, Mr. Greene, Mr. Kelsey, Mr. Perlich, Mr. Wilkowski, Miss Hart and Mrs. Daisy Elliott.

Mr. Hodges.

MR. HODGES: Mr. Chairman and members of the committee, I think that probably the main issue, as I see it, between the minority report amendment and the majority report, with the exception of the question of the elected officials, which has been taken care of by amendments here, is a question of advice and consent of the state senate.

Mr. Marshall alluded, just a moment ago, to the situation of today and yesterday in the state senate. I think this is particularly pertinent and it shows, particularly, the irresponsibility of that body in dealing with this field. While we are here debating the very question of advice and consent, the state senate, yesterday, the business committee, reported out, without recommendation, the name of the public service commissioner, Mr. James Inglis —

CHAIRMAN MILLARD: Mr. Hodges, the question is upon the minority report amendment, not upon the action of the senate yesterday.

MR. HODGES: Mr. Chairman and members of the body, it seems to me that the practical experience of what we are faced with is very pertinent as to why the question of advice and consent, whether it should be in here or not, and if we are not allowed, by example, and even by specific example to show this, then I think that we are deluding ourselves.

We have talked in generalities about whether advice and consent is good or not. The theory of advice and consent, I would submit, is probably right. The practicalities of advice and consent in the state of Michigan, has demonstrated that it cannot work.

CHAIRMAN MILLARD: Mr. Hodges, you can show by example, but the Chair does not think it is proper to mention particular names in doing that.

MR. HODGES: I'm sorry Mr. Chairman I will—but the reason—

MR. DOWNS: Point of parliamentary procedure.

CHAIRMAN MILLARD: Yes.

MR. DOWNS: Parliamentary inquiry. Is the Chair ruling that the name, James Inglis, cannot be discussed in conjunction with advice and consent?

CHAIRMAN MILLARD: The Chair would rule that his qualifications and anything that pertained to his not being confirmed would not be pertinent.

MR. DOWNS: Are you so ruling?

CHAIRMAN MILLARD: Yes.

MR. DOWNS: I appeal the decision of the Chair and ask for the chance to speak on the appeal.

MR. DEHNKE: Mr. Chairman, I would like an opportunity to speak on that also.

CHAIRMAN MILLARD: Mr. Downs is first.

MR. DOWNS: Mr. Chairman and fellow delegates, we are discussing here the question of advice and consent, not simply as an academic matter but as a realistic matter of state government. I believe that in presenting this discussion to the delegates, we want to go into the reasons, if any, for changing that. We are not trying to take over the work of the state senate under the present constitution or statutes, but use, as an example, what we feel may mean that we need a change in the present constitution. I therefore contend that Delegate Hodges, in discussing what the senate did or did not do in relation to this individual appointee for office, has a bearing on our deliberations as to whether advice and consent should be changed in the committee proposal as recommended by the minority report amendment.

I, therefore, contend that Delegate Hodges' discussion is in order, and I respectfully request that the committee overrule the Chair in its ruling on this point.

CHAIRMAN MILLARD: Judge Dehnke.

MR. DEHNKE: Mr. Chairman and delegates, I think I am as anxious as anybody could possibly be to keep the discussions within reasonable bounds and within reasonable rules of relevancy. It may be true that some of the delegates have shown very little disposition to regulate themselves in that respect. But I think on the other hand, a little more latitude might well be allowed where the discretion is being exercised reasonably. I think, in this particular case, I agree with Mr. Downs.

MR. MARTIN: Mr. Chairman.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, we have been working here for 2 full hours, and I think we have 2 full hours more. I think we will want to recess sometime along here and I will move that the committee do now arise.

CHAIRMAN MILLARD: The question is on the motion of Mr. Martin that the committee do now arise. All in favor will say aye. Have you a preferential motion?

MR. BARTHWELL: Yes. I will move this convention adjourn.

CHAIRMAN MILLARD: We cannot accept your motion in committee of the whole. The question is on the motion of the committee chairman, Mr. Martin, that the committee do now rise. All in favor will say aye. Opposed, no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair will recognize Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration certain matters on which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 71;** has considered several amendments thereto, has come to no final resolution thereon. That completes the report of the committee of the whole.

PRESIDENT NISBET: The Chair will recognize Mr. Iverson.

MR. IVERSON: Mr. President, I move the convention recess for 20 minutes.

PRESIDENT NISBET: The question is on the motion to recess for 20 minutes. Those in favor will say aye; opposed, no.

We are —

Mr. Downs.

MR. DOWNS: Miss Hart was trying to get the floor before the motion and I respectfully request she be allowed to speak.

PRESIDENT NISBET: Miss Hart may proceed.

MISS HART: Mr. President, I just wanted to say I thought it was a perfectly reasonable request, and I hoped the convention would recess.

PRESIDENT NISBET: Thank you very much. We are recessed for 20 minutes.

[Whereupon, at 10:55 o'clock a.m., the convention recessed; and, at 11:15 o'clock a.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of taking up matters on the **general orders** calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Millard. Those in favor will say aye, opposed, no.

The motion prevails. Mr. Millard.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MILLARD: The committee will be in order. Mr. Woolfenden.

MR. WOOLFENDEN: Mr. Chairman, parliamentary inquiry.

CHAIRMAN MILLARD: State it, please.

MR. WOOLFENDEN: Would I be in order to ask unanimous consent of the body for Mr. Hodges to continue with his debate, using—

CHAIRMAN MILLARD: Not at this time. The Chair has a statement to make.

At the close of our session before the recess, we were in the process of making a ruling upon the admission of certain arguments. The Chair feels that Mr. Downs and the Chair did not exactly understand each other. My ruling will be this: that the discussion may proceed in regard to advice and consent of the state senate; that examples may be used, but that personalities will be avoided.

[Mr. Downs accepted the ruling.]

The question before us now is the minority report amendment to **Committee Proposal 71.**

MR. HODGES: Thank you, Mr. Chairman. Continuing, Mr. Chairman, as to this specific example: everyone here realizes that the very purpose of the public service commission is to protect the consumers of this state. Yet no reason is given for not reporting Mr. Inglis out of committee with recommendation, which is tantamount to rejection—

MR. WANGER: Point of order.

CHAIRMAN MILLARD: State your point.

MR. WANGER: The speaker is entering into personalities contrary to the ruling of the Chair.

CHAIRMAN MILLARD: No, he was stating what the report of the committee was. He may proceed.

MR. HODGES: It would seem, therefore, Mr. Chairman, when it is reported or rumored that the reason of the rejection is that he is consumer conscious—

CHAIRMAN MILLARD: The Chair doesn't think you can state rumors, Mr. Hodges. Would you confine yourself to facts?

MR. HODGES: Well, I think the real thing is that we do not want a fox in charge of the chicken coop when we have people dealing with important things affecting the consumers of this state, and that is exactly what is demanded of a person, unless he is a rubber stamp for the utilities of this state, he cannot get confirmation.

I will pass Mr. Inglis at this point and go on to someone else, that sits in this convention and, I think, by every member of this convention is considered a respected member and one of the finest men in this convention—and I am speaking of one of our vice presidents, Mr. Chairman. I have the utmost respect for all 3, and I think every member of this convention does. Yet he probably served longer without confirmation by the state senate than anybody in the history of the state of Michigan, and I submit if there is any member here who, knowing his qualifications, and knowing the type of individual he is, could, in good conscience, say that he should be rejected or not confirmed, then, I say, let him stand now.

At this time, I would yield to Mr. Marshall for further remarks on the question of advice and consent.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: Mr. Chairman, fellow delegates, this is a very serious question that we have under debate here in the committee of the whole today. I think that the authority that has arbitrarily been assumed by our state senators in relation to the power of the governor to appoint members of the state boards and commissions, and the way in which they have used the authority of advice and consent has made a mockery of advice and consent, as you understand it, and as I understand it.

You have heard a lot of talk in the convention, up to now, from many of the delegates of both parties here, about a stronger executive—making the governor a strong governor instead of a weak governor, giving the governor more authority over appointments of his ad board and so forth. How the signers of the majority report can convince this convention or the people of this state how you strengthen a governor by giving him more authority in the way of his authority to make appointments and at the same time giving a malapportioned senate, a senate that is elected by a minority of the people, where a majority of 22 receive less votes, statewide, than the 12 senators of the other party, where you give this malapportioned senate a Gromyko type veto over gubernatorial appointees, how, in heaven's name, do you strengthen the governor?

Senate refusal to confirm appointees of the governor was a very rare thing, indeed, from the years 1901 to 1948. In 47 years of our history, there were only 9 rejections—in 47 years there were only 9 rejections—of a governor's appointments, as against 24 rejections in the 12 year period from 1948 to 1960. These figures that I give you do not deal with the number that were left hanging unconfirmed or not rejected. The list would be too long, I think, to infringe upon your time and patience to cite.

As an example of the misuse of this power, an example of the mockery that they have made out of advice and consent, one member of the appeals board of the Michigan employment security commission, who was appointed in 1946 for a 6 year term of office, was kept in this position until 1960. He served, my friends, for 14 years, in spite of the fact that Governor Williams had appointed others to replace him. This was accomplished by the senators through the simple expedient of refusing to confirm the governor's new appointees. This is an example of how the senate has usurped the executive power of appointment in this state. Only one Republican governor's nominee was rejected—only one Republican governor's nominee was rejected—from 1906 to 1947, and this was during the term of office of former Governor Kim Sigler.

There was never any accusation by the senators that the appointees who were appointed by Governor Williams during his 12 year term in office were not qualified. Under the circumstances, then, no other reasonable conclusion can be reached than that the senate was motivated by purely political considerations and giving priority to political considerations over good governmental administration.

Do not place the governor and his appointees at the mercy of a malapportioned senate, wherein the governor has to make his appointments more on the basis of confirmability, as to whether or not the appointee will stand in good graces and will be approved by the 22 senators, instead of whether or not he can select the best man he can find in the state for the job and appoint him and have him confirmed.

I think the action that you read of in the Free Press this morning is a glaring example, and I hope that the senate will reconsider. Because, when the present gentleman under dispute served as the racing commissioner in this state, he received praises from people in all walks of life, all political affiliations, and received very favorable praise from the daily press of this state. I think it is an outrageous situation where this man now finds himself subjected to having his name reported out of committee without recommendation.

I could go through the list, and I have it here with me, to give you the names and positions of all of the appointments rejected by the senate, the 9 that were rejected from 1901 to 1948, as well as the 24 during the 12 year term of Governor Williams. Last year—and it didn't change when Governor Williams left office—last year there were 5 appointees of Governor Swainson that were rejected by the state senate, with no reasons given, and there were 15 last year left hanging in air, unconfirmed. I think this is a shocking record. And I think that any fairminded individual that would take a look at the facts and consider them, very seriously, and consider them in the light and vein in which they are given, would have to come to the logical conclusion that the action of the senate, in most cases, at least, was purely politically motivated. I think the question is that the senate does not reflect the will of the majority of the people, whereas the governor goes out and runs in a statewide election and is elected by all of the people by a majority vote. He then has a mandate from the people, and should be allowed and should be permitted to make appointments on the boards and commissions, and I think it brings chaos to government when we give a Gromyko type veto to a veto bloc in the senate that represents

a minority of the people of the state of Michigan, as evidenced by the vote that they receive at the polls.

This goes to the very heart of democracy. In this question, when people elect a governor of this state, they have a right to expect that he will represent all of the people to the best of his ability, and I think they also have a right to expect that his appointments will be confirmed, unless there is some good reason other than political motivations.

We are repeatedly demanding the right of each citizen in the iron curtain countries—and to give a particular example, in East Germany today—to vote on choosing his form of government. Unfortunately, in the iron curtain countries, the people do not rule. There a minority rules. It is really of little importance what percentage of the minority rules, the important fact is that the minority does rule. And that is likewise true right here when we are dealing with this question of advice and consent, because when a governor goes out and finds and picks an outstanding man to appoint as chairman of the public service commission, the governor does this after having been elected by a majority of the people. Then he finds himself confronted with the serious possibility of having this individual rejected, denied the right to serve his people by a minority of the people exercising their voice through the malapportioned senate. This has been the crux of the thing all the way through, and it is hard to disassociate apportionment from any of the other factors, and this is why, throughout this convention, I asked and insisted and wanted apportionment brought to the head of the calendar as soon as possible, in order to dispose of it, but we weren't able to accomplish that fact, having it held until the last.

In examining the appointing power in Michigan—and I have heard this used in this convention, I have heard it used in more than one committee when it was convenient to compare it to the federal system—in examining the appointing power in Michigan, it is obvious to all that the present situation does not aid sound government, by withholding consent to executive appointments—in election years, particularly—the senate makes the appointees less receptive to the governor and more receptive to the senate. Any appointee who encourages senatorial displeasure is quite likely to find his appointment rejected by the senate after spending some months in office.

The federal appointees must also rely on senatorial approval, it is true, but there is never any large group of unconfirmed appointees, and never, under the federal system, do the appointees have to toe the line so as not to encourage senatorial displeasure. They must, instead, at the federal level, act so as not to incur presidential disapproval. It is true, I admit, that the doctrine of senatorial courtesy does limit the executive somewhat, but the approval that must be rendered by senators of the same state as the appointee acts as a negative check on the appointive power rather than a positive one. The difference between presidential and gubernatorial appointments lies in the difference in the power between the 2 officials. On the national level, the president of the United States has a strong power of removal. Any removal power in Michigan is, at best, ill defined. Moreover, as the head of the national party, the president can exercise strong influence in campaigns and elections. The governor in Michigan, because of the party differences between executive and legislative, can never do this. Also, the president has patronage to deliver in many areas. The withholding of patronage is a powerful lever to use, and it is feared by the U.S. senate. That does not exist at the state level.

To sum up, the distinction between federal and state appointing power lies in the distinction between a strong and a weak executive. If the executive in Michigan, my friends, is to have control of his appointments, and through them be master of his administration, 2 things are necessary, and I think the 2 things are this: that he must have a free hand in selecting his team, he must be in a position to pick the most capable and the most qualified individual for a given position; and then, the second reason is that he then should not be subjected to having his appointees rejected or removed from office by a veto bloc in the senate without good, sound reasons for doing so. In conclusion, Mr. Chairman, I don't think that I can state too strongly the importance of removing the consent and advice provision, if we are to have a strong governor.

All of the prior statements that have been made in this committee by the chairman of the committee on executive branch and many others about strengthening the governor, about letting him appoint this official and this official and that official is so much hogwash, when you have to rely upon his approval by the state senate. I personally believe that most of us in the minority would not feel quite so strongly about this, even though I believe that the governor should have a free hand in selecting his team, but we would not feel as strongly about this advice and consent question if the majority in this convention would go along with the minority in establishing a senate that is truly representative of the majority of the people of this state. I urge your adoption of the minority report amendment, and at this time, I would like to yield the floor to Delegate Downs.

CHAIRMAN MILLARD: The Chair will recognize Mr. Downs.

MR. DOWNS: Mr. Chairman and fellow delegates, I shall try to be brief, nonrepetitious, and avoid personalities. Fellow delegates, we are now discussing what is probably as important a concept of government as there is and, for that reason, I hope we can do this without rancor, without malice and by looking ahead, instead of back; and if we look back, look back only to use history to help us judge the future, but not to prejudice the future.

I think that our basic concept of government—and I do not want to sound like a high school civics teacher—but we do agree on the basic concept of division or separation of powers, the executive, legislative and judicial. I, for one—and I want to make this clear—believe very definitely in a chief executive with limited and specific powers, and on this convention floor I was one of those who urged that the so called ad board be constitutionally elected officers. One reason for that was that I did and do still believe that the executive should have his power clearly delineated; but by the same token, I believe that once that power of the executive is established, he should have the authority to carry it out in a responsible fashion, a responsible fashion to the concepts on which he ran and was elected, a responsible fashion to the people, and one where the people can measure his performance.

There have been many glib generalities—and I meant to take them down, I hope I have gotten them right—that a governor should have responsibility or power commensurate with his authority, and with that statement I agree completely, and I believe I got it right, that he should have power commensurate with his authority. If he is to carry out these responsibilities, I think he should have the right to select his chief policy executives. We have, by our actions so far, gone in the direction of eliminating the executive departments to approximately 20, give or take a few.

I believe also, and I have made this clear, that the executive should not have the power, on a patronage or political patronage basis, to hire and fire all the employees of state government. I yield to no delegate in my support of a strong civil service amendment, a constitutional civil service for the career people who are not in the policymaking function. So, this comes down, really, to 3 things: one is, the governor should have his power clearly defined; secondly, the employees of a career nature should have their jobs protected through a positive constitutional civil service; and thirdly, the governor should have the right to appoint the heads of the departments under his authority, whether that is a constitutional or statutory authority, does not, for the purpose of this discussion, make any difference.

Now, how many positions does that make? That makes approximately 20 heads of major departments, with our recommendations that perhaps a deputy and a few other policy people in large agencies or departments as authorized by the civil service commission. This would give him that responsibility to carry out his job. I urge therefore the support of the minority recommendation.

I wish to emphasize what I touched on very briefly last

night, and Delegate Marshall did, that our present system has other weaknesses in it, that the present matter of confirmability, when we have a governor elected on a one man, one vote concept, and the confirming body on something other than a one man, one vote concept, we are building in a conflict between the 2 and a conflict that, only too often, results in the selection of the lowest common denominator. The governor, in making an appointment, cannot consider solely the matter of ability; if he is to "get along with the legislature" he must concern himself also with the matter of confirmability. Believe me, if we have a governor—and I wish to mention no names—that is or wishes to be a sound governor, a sound administrator, a positive, constructive administrator, this is the most frustrating experience in his administration. If, on the other hand, we have a governor that neither cares nor is capable of being a good administrator, we have built in a complete excuse for mediocrity in performance, because if he is questioned, he can always say, "Gentlemen, I would have had a perfect administration, but the people I wanted to select could not be confirmed." I say that the confirmation concept has, in our state, been unfair to the governor, it has been unfair to the legislature, and most of all, it has been unfair to the people of the state.

I would, without going back too far in history, point out that the legislature, and the legislature properly, has very many controls. For example, the matter of legislation. The legislation is establishing the functions of government as adopted by the legislature, and this is a proper control. The allocation of money—and there is no control like a purse string control—is a legislative one.

I hope that I will make this very brief, just a little point of historical reference which I think may be of some interest, particularly to our Hamiltonian friends in the delegation. If my memory is correct, not from personal experience, but from reading, I believe that when Hamilton was first secretary of treasury, and George Washington was president, they did not bother with appropriations, but rather, President Washington, with the advice of Mr. Hamilton, would expend—would not make appropriations—no, he would make appropriations, I believe, and not the expenditures, and then later on, when the congress met, submit to them a bill for what had been done. This happened about 2 or 3 sessions, and it was considered too much power for the executive, and then, historically we did develop the concept of appropriations by the legislative body.

I do say, in summary, and I shall try to sum up very briefly, that if we truly want a governor that represents the wishes of the people, is elected on a free ballot system, then on the executive and administrative aspect of government he should have the power commensurate with the authority, and if he does wrong, the people will know who to go to. If, through honest mistake, he picks somebody that does not turn out adequate for the job, he should have the power to remove or replace that person. And if there should be—and I am glad to say we have not had this in our state—examples of major corruption, certainly the people and the courts can take care of that as well as the legislative controls.

Mr. Chairman and fellow delegates, I urge the support of the minority report amendment.

CHAIRMAN MILLARD: Will the sergeant at arms put those amendments up on the wall, please. Mr. Marshall.

MR. MARSHALL: I yield to Delegate Hodges at this time, Mr. Chairman.

CHAIRMAN MILLARD: Delegate Hodges.

MR. HODGES: Mr. Chairman, I would think that perhaps there are many people here who do not really know how advice and consent mechanically works in the Michigan state senate. Certainly there are people far more qualified than me, and they can correct me if I am mistaken, but all appointments or confirmations are channeled through the senate business committee, which is a 6 man committee, and, until recently, 5 of those members were from the majority party in the state senate, and 1 was from the minority party. Thus, a member of the governor's party could not even get a second in the committee for confirmation.

When we talk about advice and consent of the senate, this is, in truth, a myth. What we are talking about is advice and consent of 4 individuals today and 5 individuals a short time ago, who are the sole arbiters of whether an individual shall continue to sit or not. The senate does not have the time, nor does it try, as a body, to seek the individual merit of the person whose name is before it, and I would submit, in many cases, they don't even know the person, they might not even have heard of him. Yet they follow, which they must probably do, because of their limitations of time, almost blindly, the recommendations of the senate business committee.

I say to you here, that to reject this amendment is to say that there are members of the leadership of this convention who are not qualified to sit in state government, and I don't think that is an indictment anyone here would care to make. Thank you.

CHAIRMAN MILLARD: Mr. Marshall, the minority proponents still have the floor.

MR. MARSHALL: I yield the floor, Mr. Chairman.

CHAIRMAN MILLARD: The first one on the list is the delegate from Grand Rapids, Mr. Blandford.

MR. BLANDFORD: Mr. Chairman and fellow delegates, I think today we are seeing the opening blast on apportionment. I am sure we will get to that battle next week. I, for one, am looking forward to it. I have been kind of quiet here for a few weeks, but I will be back next week.

My friend, Bill Marshall, didn't give us the complete story on the 1961 record of the senate with regards to advice and consent. The statement that the senate's record on this is all bad is just not true. I think Mr. Marshall knows it. I think this should be spiked once and for all. Senator John Fitzgerald, who heads up the senate business committee, which is charged with the responsibility of advice and consent, appeared before our legislative organization committee. I would like to read to you delegates the direct testimony that he gave before our committee. I will now quote Senator Fitzgerald. He says:

> There were 175 appointments that faced us during the legislative session in 1961. Of 175 appointments, we confirmed 135; 8 withdrew; 2, I believe, were appointed to jobs in Washington; 1, I believe, left the state; the business interests of 1 man became such that he couldn't go on; 5 were rejected; and 16 left in committee. This totals a few short of 175, and they are probably still in committee.
>
> Here is why they are in committee. It is a little difficult when these appointments come in as late as the morning of adjournment, to have them in and act on them the same day. The people that were rejected were, in my feeling, rejected for very good reasons.

That is the end of the quotation from Senator Fitzgerald. In my personal opinion, 5 rejections out of 175 governor appointments is an excellent record on the part of the state senate.

We did ask Senator Fitzgerald a couple of other questions when he appeared before our committee, and I am sure that both Mr. Marshall and Mr. Hodges, who appear on the committee, will remember this. He said that in a couple of instances, and one that he remembered specifically, they had a man come before the committee that the governor had named that morning. This gentleman lived in the upper peninsula. They made a special effort to get him before the committee because he was driving back that same day. They interviewed him and confirmed him the same day. So, I would say they are cooperating very well with the governor. I asked him, when he appeared before the committee, if he had ever been commended by Governor Swainson. He said he had been for the way that they had been handling advice and consent. In my judgment, the senate's record in 1961 is an excellent record, and I certainly am for the continuation of the advice and consent feature of the state senate.

Furthermore, in the majority report—which we haven't gotten to as yet—this loophole of being able to leave these appointments in committee, has been plugged once and for all, because if the senate does not confirm them within 60 days, they are automatically confirmed. So I think that the way the proposal is written up, it pretty well covers the advice and

consent, and I certainly urge all of you to vote in favor of the majority report when it comes up, and vote against the minority report amendment.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Saginaw, Mr. Shackleton.

MR. SHACKLETON: Mr. Chairman, members of the committee, it may be that there have been numerous abuses to the power of the senate to confirm or reject. Maybe they have been serious. Delegate Marshall would lead us to believe that it has all happened since about 1948. Apparently it did not bother either Governor Williams or Governor Swainson too much, from what Mr. Blandford has said.

I want to quote 2 sentences from Governor Williams' testimony before the committee on executive branch. All members of this committee, of course, could not attend all committee hearings and all testimony. Governor Williams, in his testimony made this statement, "The senate should have the right to approve gubernatorial appointments. That this power can be abused does not deny its general validity." If he were terribly mistreated, I doubt that he would have made the statement contained in those 2 sentences, and I certainly oppose the minority report amendment.

CHAIRMAN MILLARD: Delegate Plank.

MR. PLANK: Mr. Chairman, I would like to ask Mr. Marshall a question.

CHAIRMAN MILLARD: If he cares to answer.

MR. PLANK: How many of the Governor Swainson appointments had AFL-CIO backgrounds?

CHAIRMAN MILLARD: The Chair thinks that that is out of order. You don't have to answer it.

MR. MARSHALL: Well, I don't—

CHAIRMAN MILLARD: No, the Chair is not going to allow you to answer it.

MR. MARSHALL: May I appeal to the Chair a moment? I would like, if it is the pleasure of the committee and the Chair, to go into all of the appointments, and just briefly, Mr. Chairman. If I am out of order, tell me—

CHAIRMAN MILLARD: The Chair has ruled that the question is out of order, and doesn't think it needs any answer.

MR. MARSHALL: Well, may I make a statement, then, since he asked the question?

CHAIRMAN MILLARD: No.

MR. MARSHALL: I think I have a right to make an explanation, since he has asked the question.

CHAIRMAN MILLARD: The Chair has ruled Mr. Plank out of order. That's it.

MR. MARSHALL: Well, may I have a point of personal privilege?

CHAIRMAN MILLARD: No, there is no personal privilege in committee of the whole.

MR. PLANK: Mr. Chairman, perhaps you should know my reasons behind asking the question—

CHAIRMAN MILLARD: The Chair doesn't want to know your reasons at all. The Chair has ruled you out of order.

MR. PLANK: I have some real good ones, Mr. Chairman.

CHAIRMAN MILLARD: The Chair will recognize Delegate Follo.

MR. FOLLO: Mr. Chairman, I rise to support the minority report amendment, and this is my reason: last December the education committee made a trip up to Houghton, at which time we were entertained by the board of control of Michigan Tech, and the president and certain other officials. As I stood there talking to 2 of them, 2 of the board of control, they told me they had been appointed for several months and neither one of them had been confirmed, and they said there was a third one had not been confirmed and—much as I hate to admit that sometimes Democrats can abuse this privilege of advice and consent—it was a Democrat that had held up their appointments because of certain reasons which were his own, which may be very good, but were not considered so by other people.

I feel that, while I know this will be removed by the 60 day provision, nevertheless, it serves to point up that this thing has been abused in the past and is likely to be abused in the future if we don't take some action about it. Thank you.

CHAIRMAN MILLARD: The Chair will recognize Mrs. Butler.

MRS. BUTLER: Mr. Chairman, I would like to address a question to Mr. Downs, if he is here. If he isn't, to Mr. Marshall.

CHAIRMAN MILLARD: Mr. Downs is coming, if he cares to answer.

MRS. BUTLER: Mr. Chairman, Mr. Downs, I understand that in the advice and consent of congress, that the president asks the advice of the committee in congress before he asks for the consent. Is this true in the state with the governor? Does he ask the advice or does he just ask for the consent?

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Mr. Chairman, I will try to answer this the best I can, Mrs. Butler. I could not give a yes or no answer, but I think I can, as far as the United States congress goes, I have not been on a speaking acquaintanceship with the presidents there, so I cannot speak of personal knowledge.

I think that in the state of Michigan there certainly have been times when the governor has discussed appointments, prior to making them, with leaders of the senate and I am sure there are people here from the senate who can speak better on that. I would say it is my impression—and this again is not from first hand knowledge—that generally speaking, when the governor is from the same party as the majority of the senate, there is probably more preliminary discussion.

Now, the point I would like to make and tried to make in my talk, is that if the governor does do more at the advice level, he could end up with nobody ever being rejected. In other words, if the governor, regardless of the political party, says to the senate business committee, "Come on in and meet with me. Here is a list of names. If there are any you do not want to okay, I just won't submit them," then we will never have a case where somebody is rejected under advice and consent. That could be done. I am talking purely theoretically now. However, the point I want to make now is that if that is done, to the extent that it is done the governor is then more concerned with what he thinks will be confirmability than what, in his executive estimation, is a matter of ability for who he thinks can best carry out the administration of state government, and I think you have raised a very important question. I am very glad you raised it, and I hope I have been able to shed some further light on this matter. I am sure there are former legislators who can speak much more adequately on the details than I can.

MRS. BUTLER: Thank you, Mr. Downs.

CHAIRMAN MILLARD: The Chair recognizes Delegate King.

MR. KING: Mr. Chairman and fellow delegates, I have a few points that I think ought to be clarified. First of all, advice and consent of some legislative body is sound, necessary and advisable. I don't think that can be debated.

Delegates Hodges and Marshall have made a partisan appeal, which, I think, is unfortunate. Let's try to put this topic in its proper perspective. First of all, a given governor can, does, and has baited the senate by submitting names of people he knows to be unqualified and unacceptable. This, I think, is unfortunate. This violates the concept of advice and consent, as pointed out by Mr. Downs, and I don't think this happens at the national level. Secondly, I don't think the senate ought to be forced to libel and slander the reputation of perspective appointees under the cloak of legislative immunity by being required to state publicly their reasons for not confirming. I think this would be most inadvisable. Thirdly, there is no reason why confirmation or nonconfirmation should not be forthcoming within a reasonable time. Of course, the committee proposal provides for that. It provides that it must take place within 60 legislative days. This has been corrected in the committee proposal. Fourth, I think it is true that sometimes senate committees withhold consent for fear of nonconfirmation on the floor. This practice might be defensible under the present constitution but, of course, it will not be possible, in any event, if the committee proposal is accepted and the new constitution is passed by the people of this state.

After this review of the facts, we must then ask ourselves if some of the minority members here really want to persuade or only want to agitate, antagonize, polarize and influence the distinguished gallery on each end of the hall. I don't think this is the case, in the remarks by Delegate Follo and Delegate Downs.

To get back to the matter which was first brought up, how about the action yesterday in the senate committee? First of all, the senate has taken no action on the recommendation of this 4 to 2 majority controlled committee, and it is presumptuous of us to try to assume what that action will be. They also recommended, as I recall from reading in the paper, the recommendation of another gubernatorial appointee, one Mr. Scholle. To follow the reasoning of the minority here, it would appear that Mr. Scholle has not been active in the affairs of the minority party.

CHAIRMAN MILLARD: Just a moment. The Chair doesn't want you to get into personalities, Mr. King. The Chair made that ruling, and wants you to follow it.

MR. KING: I will try to follow it, Mr. Chairman, and I don't think that I was violating your ruling. I was merely pointing out the inconsistencies in the statements of other delegates.

I would also agree with Mr. Blandford that the senate's committee action this past year represents great improvement over the past. I agree with Governor Williams, when he supports the valid principle of advice and consent, but before you think that I have given up wearing my badge here, I would point this out: I would support any amendment which would place this power in that legislative body which is most closely apportioned according to population. I am disappointed that some of the minority delegates have made this kind of an amendment more difficult, but if someone does care to make that kind of an amendment, then I would support it. I think there is valid reason for having one house based on population, as nearly as possible, and the other based on area and population. I see no reason, though, despite positions to the contrary, at the state and federal level, why this advice and consent function could not be given to the house which most closely represents the population. Thank you.

CHAIRMAN MILLARD: Delegate Bentley.

MR. BENTLEY: Mr. Chairman, in discussing the whole question of advice and consent we are, of course, discussing an institution which—certainly on the federal level and, in many cases, on the state level—is among the oldest institutions, among the oldest ones of the checks and balances in our country.

I would be the last one to try to deny that there has been, from time to time, abuse on the part of both the executive and the legislative, insofar as this historic institution is concerned. I think that it would be very possible—I shall not do so, for I would be violating the Chair's ruling in respect to personalities—to point out examples on the national level that are equally as flagrant as any accusation which has been brought against the legislative body here on the state level. I shall not do so. Likewise, I shall not attempt to discuss the institution, and how it operates either at the federal or state level. It would be interesting to know how many of the delegates might have read that recent best seller by Mr. Allen Drury, such a best seller that it is being made into both a stage play and a movie, whose title is, Advice and Consent, which discusses the entire concept at very great and interesting length.

But I think, since we are basically confining ourselves to the immediate question of whether or not the advice and consent proviso should or should not remain in our constitution, it might be helpful to the members of the committee of the whole to be specifically informed with regard to the constitutions of some of their sister states in this respect. The research and drafting department has informed me that there are 37 states which specifically require, in their constitutions, advice and consent with respect to either the senate or the legislature; 28 of these require specifically advice and consent with regard to designated gubernatorial appointments, including the recent constitutions of Hawaii, Missouri, New Jersey, New York; and the only other pertinent recent constitution, of the state of Alaska, requires advice and consent by the entire legislature. So 37 out of a total of 50 specifically make this requirement. An additional 20 require it in the case of all heads of departments, boards and commissions, et cetera, where the appointment is not otherwise specifically designated.

I would speak in strong and determined opposition to the minority position, Mr. Chairman, to remove this time tested tradition from our constitution. I maintain that although the practice perhaps has been unfortunate in both respects over the last few years, I think when we consider the entire history of advice and consent, as it has operated in the last 54 years since the 1908 constitution, and keeping in mind that we are endeavoring to write a document which will be projected at least as far into the future, I would certainly hope that all delegates would insist upon keeping this in with the wise proviso which the committee has adopted, which will, perhaps, prohibit the most flagrant example of abuse, if abuse has occurred in these recent last few years. Thank you.

CHAIRMAN MILLARD: Delegate Hodges.

MR. HODGES: Mr. Chairman and members of the committee, I would merely like to answer a couple of the statements of Mr. Blandford. One, he stated the number of appointments that were confirmed in the last year, and I would be one of the first to admit that there has been some improvement. I think that the letter from Governor Swainson to Senator Fitzgerald was properly apropos. When one has been hit over the head with a sledge hammer for years, and somebody picks up a lighter instrument, this is an improvement. But I would also say this: if you look over the variety of these 120 commissions we have, you can understandably see that many of these are one issue commissions, ones of limited importance except to the individuals involved in the particular field, and ones for which advice and consent is probably readily attainable. These are not the commissions where primarily the rejections come from. It comes to the important, key committees of our state government, in the fields of workmen's compensation, unemployment compensation; the things that are meaningful to the wide scope of the people of this state. These are where the rejections come in.

I would only say to Mr. King that he made a very serious charge when he said that the governors of this state have knowingly submitted the names of unqualified people. I am not going to get into a colloquy with Mr. King on the floor, but I think that if he is going to make these charges, he should substantiate them.

CHAIRMAN MILLARD: The Chair will recognize Delegate Dean Doty.

MR. DEAN DOTY: Mr. Chairman, members of the committee, I would not be able to subscribe to the things that Delegate King has just said. I would say this: there is a danger that a governor, in all sincerity, could pick the wrong man. If Mrs. Butler had been fortunate enough to have been in the capitol several years ago, she would have seen the bipartisan effort that was made to confirm many of the people that are questioned. They rode a pretty broad path to the governor's office, and if you stood in the capitol rotunda you would have seen that.

Mr. Marshall referred to the Gromyko power. I would hate to think that this was true of our federal government. I don't believe it is. In other words, that there should be no check and balance. In my opinion, this is the very thing that makes good government and makes this government strong, checks and balances.

Mr. Marshall referred to the number of rejections. He didn't give us the total number of names submitted, and I would like to submit this: 1941 to '42, of the Van Wagoner administration, rejections by the senate—none; 1943 to '46, Kelly administration—none; 1949 to '60, Williams administration—23 in 12 years, an average of 2 per year; and 1961, Swainson administration—5. Now, let's look at the 1961 session: of those confirmed compared to those submitted—10 per cent. I defy any delegate to admit that he isn't wrong at least 10 per cent of the time if not more.

CHAIRMAN MILLARD: Delegate Faxon.

MR. FAXON: Mr. Chairman, fellow delegates, the amendment which you are being asked to consider here only deletes that portion which is objectionable and so, to those delegates who want to see some changes made, I am sure that any amendments after this will be in order to insert that type of consent which those delegates feel are necessary; so I just want to get that in the proper perspective.

The second point I would like to make is, we have been going on with the words "advice and consent," and I think we need to get back to what the meaning was, I think, when it was first put in, and understand that actually the meaning it had when it was first put into the constitution back in 1787 has never really been exercised at any time after the federal government was organized and began under Washington in 1790.

They had an idea in those days that the senate would act as an advisory board; a group to advise the president. And, since there were only 13 states, you would have 26 people to sit down with the president and they would discuss appointments and they would then agree on it, and they would give the advice and the consent. This was the idea that had been carried over, for instance, from the parliamentary days where in England there are no separate branches of government. You have them all working together, and they didn't really know, back in 1787 when they put this in that they were trying to create checks and balances, and they didn't really know how it would work, and they figured, well, the president ought to be able to sit down with his advisors and agree upon who should occupy the chief offices of the federal government.

I guess they had a good reason for it, and I guess the idea is that the executive ought not to have a completely unrestricted power of appointment, and I, for one, am not going to stand up and say that I am for complete freedom with regard to executive appointments. It would be completely inconsistent with conservative responsibility of a constitution. But, at the same time, when this began working out in 1790 and Washington came down to the senate, there was some degree of embarrassment. The senators were a little bit embarrassed because they viewed the office of president with a certain degree of awe, as they would have viewed any chief executive—as they viewed the king, even though they had broken away from England—and Washington, feeling the discomfort, the whole situation being what it was, didn't go down again and the advice part soon left the whole picture. And so it became a consent part. And it was consent not just to appointments, but it was consent to treaties and foreign affairs and other areas where the senate was given special privileges.

We are not suggesting here that there should be an unlimited right of the governor to fill appointments and vacancies. That is, the governor's right to appoint should be subject to some limitations. This we know must be because we can never predict what might be put into the governorship, and we can never predict what kind of appointments, so there is a check. We are not advocating no check. What we are concerned with here is that an official who is elected by all the people of all the state is having his appointments not consented to by a minority of the people representing a minority of the state.

Governments—and this isn't anything original—are instituted among men, and they derive their just powers from the consent of the governed, and that is a good old declaration, and as it goes on in the declaration, when any government becomes destructive of these ends, it is the right of the people to alter or to abolish it. We are not concerned with abolishing; but we are concerned with alteration, and the reason we are concerned with alteration is because government has become destructive of these ends, the ends being good government, the good government being permitting the executive to make his appointments and permitting the legislature to exercise its powers and prerogatives, but not to the extent of denying the right of the executive to function. What we are dealing with here is whether we can have an executive branch of government that can function.

Now, the declaration wisely goes on to say that mankind is more disposed to suffer while evils are sufferable than to alter and change those institutions which have long endured and certainly history has shown this, and we in Michigan have been patient, and the people of this country have been patient. We have not altered or abolished our government significantly. But, when a long train of abuses and usurpations, pursuing, invariably, the same object evinces a design, then it is the right and then it is the time for the people to alter or to abolish those forms of government. This is what we are dealing with. It goes back all the way to 1776.

The senate, if it has abused its privileges, it has abused them. The record is there, and when they pursue, invariably, the same design—and that design is to curb and restrict the powers of the chief executive of this state to execute the laws by appointing those people he can work most efficiently and effectively with, then we have reason to view this with certain degrees of criticism.

When the declaration was written, they were referring to the arbitrariness of His Majesty King George III, and they said as the very first thing: he has refused his assent to law, as the most wholesome and necessary for the public good. Could this not be said in other language: that the senate has refused their assent to appointees, the most wholesome and necessary for the public good? One could go on and point out that the very reasons which prompted the people in 1776 to declare their reasons for wanting to change or alter their form of government is the very reason that we are in convention meeting now, because the people of this state have asked us to represent them in changing or altering those forms which would seem to be in need of alteration in the light of present conditions and present practices.

So, I think that the idea of checks and balances is a fine one and I am not advocating no check, but I suggest to you that when a long train of abuses and usurpations, pursuing, invariably, the same object, and that is to not confirm the appointments of one governor of one party—and this is not to me a party question—but when you don't confirm the appointments of one governor of one party and you do of the other, then that same object evinces a design which must lead up to the conclusion that this needs alteration.

CHAIRMAN MILLARD: The Chair will recognize Delegate Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I was interested in Mr. Faxon's comparison of the senate with the king of England. I didn't know that he was raising the senate up to the position of the king of England.

I want to rise in connection with this matter of advice and consent, Mr. Chairman, because it was my duty for a number of years to serve as chairman of the committee on senate business. I would like to make this observation with regard to this advice and consent function, which hasn't yet been mentioned, and that is that, at least in the Michigan practice, the governor appoints officers whose terms of office extend far beyond his own, so that the hand of the governor reaches into the future and influences the future in that respect, and so the advice and consent function is justifiable on that ground, if for no other; that when you are vesting a power in an official to reach beyond the term for which he was elected, it is justifiable that there be some check.

Much emphasis has been placed by some speakers on the record in the senate of Michigan during recent years with regards to the advice and consent function. I would like to say, first of all, that the Constitution of Michigan, as it now stands, says that the advice and consent function of the senate, so far as the constitution is concerned, is a very narrow thing. The only place where the present Constitution of Michigan mentions advice and consent at all is in section 10 of article VI, where it says, "Whenever a vacancy shall occur in any of the state offices, the governor shall fill the same by appointment, by and with the advice and consent of the senate, if in session."

Now, this is a very narrow situation where, as a constitutional matter, the senate could advise and consent only when the governor has to fill a state office, namely, a constitutional

state office during a time when the senate is in session. That is all that is required by the constitution. All of the rest of this advice and consent function of the senate in Michigan is statutory, and could be amended, taken away, removed by statute at the present time.

As a matter of history, there have been times in our state's progress when departments, boards and commissions have been created to which the advice and consent function was not attached. There are several boards in the state government at the present time where the senate has no advice and consent function. One, for instance, that I recall off hand, is the state board of cosmetology. When that board was created the legislature did not provide that the appointments be subjected to the advice and consent function, and so they are not.

I recall, on 2 or 3 occasions, that the governor submitted to the senate some appointments which, under the law, he need not, and they were, of course, returned without action. I remember one time when, even though the state constitution says that the members of the civil service commission shall be appointed by the governor and doesn't say anything about any advice and consent function, the governor did submit an appointment to the civil service commission to the senate. We immediately returned it without action.

So this is not an all inclusive function; it is a function, for all practical purposes, which has been set up by statute and I remind you that what is given by statute can be taken away by statute. So if the people of Michigan should feel that this practice is unnecessary or has been unduly abused or something it could, at the present time, be corrected by statutory change.

I have not had time, in all of these months, to do the kind of research that I would like into the records of those years during which I presided over the senate business committee but I do have before me some research of the citizens research council of Michigan for the years 1957 through 1961, and I would like to invite your attention to the fact that in 1957, according to their records, the senate confirmed 97 per cent of the appointments submitted; in 1958, it fell down to 67½ per cent; in 1959, however, it went up to 80 per cent; in 1960, and this is a unique year, the senate confirmed only 20 per cent of the governor's appointments; but by 1961, they were up to 82 per cent. I would like to state on the record the justification which I have for what you would call the dismal failure of the senate in 1960 when it only confirmed 20 per cent of the governor's appointees, and that explanation is this: in 1960, we had a governor whose tenure—the longest tenure in office in Michigan's history—was drawing to a close. He was a "lame duck" governor. Regardless of who the new governor was to be, whether he was to be a Democrat or a Republican, he would be a new governor. The retiring governor had been in office so long that he had actually made every appointment in state government. Not only that, but his hand was already reaching far into the future by virtue of the fact that he had made appointments which, in some cases, would extend 8 years beyond his term. We felt—and this was not any partisan position at all—that it was as much of a justification for a new Democratic governor, as it would be for a new Republican governor, to be elected in 1960, that that new governor should have an opportunity to have at least some voice in his administration.

When the senate confirms an appointee for a fixed term, why, that appointee stands for that fixed term. When the senate does not confirm, the appointee serves only at the pleasure of the governor. And so we justified—I justify the senate's position in 1960 on that ground; that failure to confirm simply afforded to the new governor, whoever he might be—and as events happened, it was a Democratic governor, Governor Swainson—afforded to Governor Swainson, an opportunity to have a voice in his own administration, to submit new names under his own decisions, to fill appointments which had not been confirmed. In 1961, the senate, according to these figures, came again to its 82 per cent performance of actual confirmations.

There have been very few actual rejections during that 5 year period. According to these figures, 1 was rejected in '57; 1 was rejected in '59; 4 were rejected in 1960; in 1957, the senate failed to take action, according to these figures, in only 1 case; in 1958, it failed to take action in 26 cases; in 1959, 25 cases; in 1960, as I have said, it failed to take action in 98 cases; but by 1961, it had failed to take action in only 24 cases.

If the senate of Michigan should have never failed to reject, it could be just as strongly argued on this floor that this function was of no value at all, since in all of the years examined there had been no rejections. In other words, this was simply a formality. It didn't mean anything at all.

If you have a system where there are never any rejections, why, the effect of it is that the system isn't serving any necessary purpose. In a system where there was an abnormal amount of absolute rejections, you might accuse, you might point the finger of accusation, of abuse, but there has not been any undue percentage of rejections, a very small percentage of rejections, in fact.

Now, in regards to nonaction, I submit to you that the committee report, the majority report, even, would contemplate a nonaction; since the senate will no longer be called upon to confirm, it will simply have a limited power to reject. And, if it doesn't choose to reject, it doesn't need to confirm; there will be much more nonaction in the future under the new proposal.

There has been some charge here on the floor that appointees are rejected on some occasions without making public the reasons for such rejections, and that is all for the protection of the appointee. I would say that, in my recollection, those that were rejected were rejected for good cause, at least in the opinion of the senate. I would never say that a governor knowingly submitted to the senate an unqualified appointee. I don't believe that any governor ever knowingly submitted to the senate any such unqualified person. I am sure that, in his opinion, the nominee was qualified. On some few occasions, in my own experience, I had occasion to invite the governor's attention to some information that I found which apparently had not been available to him, and on some of those occasions, the governor saw fit simply to send in a request to the senate for withdrawal of the nomination, and the nomination was withdrawn; nothing was said about it. On other occasions, the reasons which, in the opinion of the senate, were good reasons for rejection, why, the governor disagreed with and so they went to the floor.

There has been some suggestion here that the committee on senate business sits as a dictator, and if the senate business committee says, "reject," why, they are rejected, and if it says, "confirm", why, they are confirmed. I can testify that such is not the case.

I did go through the journals of 1957 yesterday because I was ambitious to examine through all of these records, but it took me all day yesterday simply to get through the journals of 1957. But I noted there, in checking through the journals of '57, one appointment where the senate business committee reported the appointee out with the recommendation that the senate advise and consent and, as I recall the circumstances, I can honestly tell you that my committee expected that the senate would advise and consent to that appointment. We were among those greatly surprised when the nominee failed to obtain the constitutionally required majority vote of the members elect to be advised and consented to, with the result that he was rejected. On other occasions, my committee made adverse recommendations to the senate floor and we were overturned there, and I tell you, that after 2 or 3 experiences along that line, we were much more circumspect in making recommendations, unless and until we were sure or felt sure that our recommendations would be followed, because a senate committee doesn't like to be usually overturned.

Now, the practice before the senate of Michigan in this field—in the senate of the United States, the substantive committees receive these nominees of the president; in other words, nominations for judges go to the senate judiciary committee down in Washington; nominee for the federal power commission go to some other committee, and so on—here in Lansing, as the system started and was built up in the past, we

had a special committee handling all nominations. This committee, at one time in the senate's history, had this function alone—it was known then as the committee on executive business. At the present time, the old functions of the committee on executive business, and the old functions of the senate committee on rules and resolutions have been combined in order to make what is known as the committee on senate business in an effort, again, at reducing the number of committees; you know, reorganization of the senate.

This function of advice and consent in the Michigan senate is not a full time job of that senate committee, and the senators who sit on that committee, of course, are expected, also, to carry on a full time responsibility in other committees and also on the floor of the senate. What I am wanting to say is this: in spite of that workload, it was the policy of my committee to afford every nominee an opportunity to be heard, and they were all invited to be heard before any action was taken on them in my committee. I dare say that most of them who were adversely reported were aware—or should have been aware, from the manner of questioning and from what appeared as presented to them before the committee—that chances were not very good that they would be confirmed and, I know, on numerous occasions after such an interview that the man who was to be recommended adversely had this matter mentioned to him and he had an opportunity to request that his name be withdrawn by the governor if he wanted to. I don't say that that has always been the pratice in the senate. I don't know that it is the practice today. I am simply saying what the practice was under my committee. And I reiterate that the recommendations of my committee were not followed always without exception. There were numerous times when the recommendations of my committee, both favorable and unfavorable, were overturned in the senate.

All of this is perhaps in defense of a period of time when the senate advice and consent function is being pointed to with abuse. I would say—and we will lay the situation, frankly, upon the table—that to a large extent, the areas in which the senate either rejected or failed to take action, that is in matters of general concern, were in the field of labor. This was due, I suppose, to a conflict in philosophy between a majority of the senate and the governor, but it was restricted largely to that one field of labor.

Mention has been made of the fact that appointments to the Michigan employment compensation appeal board were not acted upon. The legal situation in that regard was that way back, I think it was in 1951, the so called Higgins amendment was written into the law under which the Michigan employment compensation appeal board operates. The Higgins amendment said that members of that board should serve until their successors were appointed and confirmed by the senate, and that became the law and, as I recall it, it is my present impression that Governor Williams signed the bill. I don't think it became a bill without his signature. As a result of that law, it is true that there were a couple of members on that board that served long beyond the time for which they were originally appointed. But, the reason that the senate failed to confirm the recommendations of Governor Williams to replace them was that, in the opinion of a majority of the senate, the compensation appeal board was a kind of administrative supreme court in that field, and that really it should be made up of people who were lawyers and not who were partisans, either of management or of labor. The appointees that we received were not in accordance with that philosophy, so we failed to confirm, with the result that the old appointees, the old members continued to serve.

The same thing was true with regard to the office of commissioner of labor, about which there has been much controversy. Back in the days when this controversy was most ripe, it stemmed from the fact that, for many years, the office of commissioner of labor had been filled by a man in labor whose background had been in the AFL, and a majority of the senate were reluctant—and maybe you can say unjustifiably reluctant—to accept appointees from a different labor organization. But that was our philosophy at the time, and it seems to have been justified; at least, as justified as the philosophy of the governor.

So, I submit to you that much of this criticism of the advice and consent function of the senate of Michigan wouldn't be here today if it were not for the fact that we did have a period of time—I don't think that it is as nearly as ripe and as excited now as it was a few years back, during this time when there was a transition in Michigan from the AFL to the CIO.

CHAIRMAN MILLARD: The Chair will recognize Dr. Nord.

MR. NORD: Mr. Chairman, Mr. Hutchinson has just given an elaborate defense of a wholly indefensible record. The more I heard him explain it, the more convinced I have become it is not something we wish to repeat. One of the things he pointed out, for example, was this: that the senate business committee doesn't like to be overturned, and that is one of the reasons that they were reluctant, often, to act. What about the comparable situation, however, when the governor also feels that he may be overturned if he appoints somebody and he doesn't get consent of the senate? In other words, there is a prior restraint upon the governor because he has to consider confirmability, and it is the exact same type of restraint as the senator just mentioned with respect to his committee. Further, in Mr. Hutchinson's talk, he pointed out that one of the best examples of the inaction of the committee, which was to give advice and consent, initially, had to do with a situation where 80 per cent of the appointments were disregarded, the explanation being that that is when there is a lame duck governor. That seems to be rather odd for him to take that position, because, if I am not mistaken—if I am mistaken, I believe I will be corrected—I recall that he took the position that there should be lame duck governors, when that position was before us, that is to say, that there were to be 2 term limitations for the governor. Putting his position in a package, then, so to speak, you will see that: he wishes to have lame duck governors, and then when we have them, he expects that their appointments will not be ratified.

The only conclusion I can draw from this is that this is part and parcel of a fixed intention on the part of a number of delegates to the convention, no doubt, to thwart the executive branch of government as much as they can, and to me that would be absolutely inimicable to good government, and it absolutely prevents any effective government.

I ask you this question also, in a tit for tat sense: it is stated that the senate should give advice and consent to matters relating to the executive responsibility. If there is any validity to that, is there validity to the contrary, to the reverse? Should the governor also not be given the power to advise and consent to the selection of committee appointments by the legislature? I don't say we should do that, but I simply say that whatever reason is urged for one could equally be urged for the other. There is no powerful case to show that the legislature is the one to give advice and consent. If there is to be advice and consent, it certainly is not clear that it ought to be from the opposite branch of government.

It seems to me that Mr. Faxon put his finger on the point when he started to explain where the whole idea came from. The idea of advice and consent is that there should be teamwork between the governor and people who are likely and willing, most likely and willing to cooperate with him. If he has a group of people who are most likely to be cooperative with him, it is a good thing for them to share decisions. But suppose we are thinking of the reverse case, a pitched battle between a governor, representing a majority, and a portion only of the legislature—that is, only one house, a portion of the legislature—which can, and frequently has represented an opposing minority? That can happen when the governor is of one party and the senate is of the other. It can even happen if they are of the same party. The point I make is this: if you set up a team, a team effort, and then you find that, in fact, you have opposing parties trying to give advice and consent to each other, you know there is something wrong with your system.

As Mr. King pointed out, the matter could be viewed dif-

ferently if we had a house, either house which was fully responsive to the majority of the people. In that case, I certainly would take an entirely different view. But that matter, of course, is not before us at this time. We have to consider the senate. That is the one before us, and the proposal for the senate is rather similar to the past. It would not represent a majority.

Mr. Doty also mentioned some points that I would like to comment upon. He said, "well, 10 per cent wrong," I believe he said, "is not bad. Everybody is 10 per cent wrong, at least." That is true. It is true that everybody is at least 10 per cent wrong. I suppose that means they have only rejected 10 per cent or less. I believe that is the idea. But again, that overlooks the point that Mr. Htuchinson mentioned, that they won't do certain things; in this case, the governor will not make certain appointments because he doesn't believe they will be confirmed. It isn't just the 10 per cent that are rejected. It is the prior restraint, it is the prior restraint of one branch of government on another.

On the whole, therefore, Mr. Chairman, I conclude simply with this point: I am not opposed to advice and consent of somebody. The governor could have the advice and consent of someone. He could, for example, have advice and consent of an elected ad board. That would be his cabinet. If they were elected, certainly he would have teamwork there. Some kind of advice and consent could be worked out. It could be of one house. It could be of the ad board. But, the point is this: we should never provide in the government a system which requires teamwork and doesn't give any guarantee or really any expectation that what we will get is teamwork. Therefore, I think we should strike the advice and consent of the senate and then reconstruct whatever kind of advice and consent or other provision we need.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from St. Joseph, Delegate Upton.

MR. UPTON: Mr. Chairman and fellow delegates, one of our delegates has been talking about a train of abuses by the committee who confirms the appointments. I don't wish to continue the abuses, I think, that some of us have been going through for the last day on some of the ideas of how we can best carry out the checks and balance system that has made our country strong. In my viewpoint, we need this confirmation by consent and advice by the senate on all appointments, for this is the manner in which we, as a people, are interested, to make sure that a governor does not go to the wrong viewpoint which he may go to without this advice and consent by the senate. Therefore, I would support the committee proposal and oppose this minority report amendment.

CHAIRMAN MILLARD: Delegate Stevens.

MR. STEVENS: Mr. Chairman and members of the committee, I mislaid my notes. As a political theorist, I wish to join the practical politicians in opposing this and any other dilution of the principle of advice and consent, beyond that which the committee has recommended in its report. Thank you.

CHAIRMAN MILLARD: Delegate Downs.

MR. DOWNS: Mr. Chairman and fellow delegates, I shall be very brief, since I have spoken once. I would like to thank Senator Hutchinson for his statement that to his knowledge, no governor—if I am quoting this right—had knowingly appointed an unqualified person to a position. I believe that that is a responsible statement by Senator Hutchinson and does much to get our discussion on the merits and away from personalities.

Now that I have expressed my appreciation for his comment, I would like to express some of my differences with his ideas. I think he also pointed out that the basic reason on the problem of advice and consent was a difference in philosophy between the senate and the governor, and in this statement, I also agree with him, and disagree with those who just say, well, it is a matter of just changing this senator or that senator, and so on, which will solve the problem. I believe that he was very proper in pointing out that there is a difference in philosophy between the senate and the governor, and I am not, at this point, going to say which one is correct. I do not believe that is a function of this forum and deliberative body. But, I do wish to emphasize, that as long as we have a governor selected on a one man, one vote basis, and the confirming body selected on a different basis, we have a built in conflict of philosophy because of the differences of the basis of representation, and I emphasize again that that is true regardless of which party is governor and which party has a majority of the senate; because a governor, regardless of which party he is elected by, is elected on a statewide basis, and must have the philosophy of his appointees reviewed by a senate or a committee of a senate that is not on a statewide basis.

I would particularly like to point out that I think the strengthening in both the minority and majority report provide that the governor can have people serve at his pleasure, which means he is responsible for the administration. I hope this will, once and for all, remove the necessity that Delegate Hutchinson referred to—and I put "necessity" in quotes—where the then senate did not confirm people on the theory there might be a different governor later on. This does make a stronger governor. It does provide for more change in government.

On the point about the lawyer being on the appeal board of MESC—and perhaps we are getting into too detailed discussion—I would simply point out that the statute did not then, and to my knowledge, never required only attorneys on that body. I would suggest that if the senate had wanted only attorneys on that body, it would have been better to have done that directly by legislation, rather than indirectly or obliquely by making a decision not to confirm anybody who was not an attorney. I think that is legislation of an indirect nature.

And, finally, when the mention was made of the so called Higgins amendment, while I do not know the details at this point, I would just point out again that this may be another control the legislature has, if that was part of a package or compromise bill dealing with other items. Perhaps we are unnecessarily reviewing past history, but since it has been brought up, I wish to take the opportunity to make a few comments on it.

I would say, again, that the minority report amendment does put the definite responsibility on the governor, and I, for one, feel that the governor, regardless of political party, would use his best judgment on making appointments, knowing full well that he was answerable to the people in making the ultimate choices that he had for important executive positions. Thank you.

CHAIRMAN MILLARD: The question is on the minority report amendment. Mr. Martin.

MR. MARTIN: Mr. Chairman, do you have any more speakers on your list?

CHAIRMAN MILLARD: No, that is the last one.

MR. MARTIN: Then, apparently we are about ready to vote. If I might make just a brief remark, we can take a vote and after that I will move that the committee rise.

I would simply add this to what has already been said, because I think that the subject has been very well covered by the preceding speakers. But, I would like to say that it is impossible to consider this problem of advice and consent and what we should do about it without also considering what the committee proposes to do about a modification of the provision regarding advice and consent. As you know, we do provide that advice and consent shall involve a rejection within a period of 60 legislative days after an appointment is submitted. This means that if the appointment is not rejected within that time, it will stand confirmed at that point.

I want to read one short paragraph from the report of the citizens research council, dated January 23, 1962, to indicate that this is a problem; this problem of how advice and consent should operate is a problem primarily concerned with this matter of whether action is taken or not, and the paragraph reads as follows:

> Almost all of the Michigan statutes establishing administrative agencies provide that the department head, whether a single director or a board, be appointed by the governor, with the advice and consent of the senate. And

the constitution provides that vacancies in state offices be filled in the same manner. The requirement of senatorial confirmation of appointments is designed to prevent the appointment to office of unsuitable persons by an irresponsible executive.

And I would say, or a mistaken executive, one who doesn't have all the facts as to the person he is appointing.

This check on the governor's appointive powers is proper if properly applied in practice. In Michigan, however, the advice and consent of the senate has not been applied properly in recent years. During the past 5 years, the governor has submitted 557 names to the senate for confirmation. Of these, 372 have been confirmed and 11 rejected. . . .

I call your attention to the fact that 11 rejected out of 557 is something less than 2 per cent of the total.

. . . but the senate failed to act on the nominations of 174 nominees, almost 1/3 of the total. This failure to confirm or reject has led to a situation in which the nominee can serve in the office to which he was appointed until his appointment is rejected. But the senate, at any time, can reject the appointment. The result is that a sizeable number of appointees who head executive, administrative departments have been serving, in effect, at the pleasure of the senate.

"This," says the citizens research council—and I heartily agree with them, "is a serious encroachment on the executive authority and responsibility of the governor and is an impediment to securing able individuals to serve in appointive positions." So, I hope that in considering this, in voting on this, you will consider the fact that we are making this proposed change further along in this proposal, and that this will cure or meet the problem in a great majority of those cases. Certainly, the number of rejections in the period of 5 years is not out of line in terms of the number of appointments presented. It is to be expected that some would be rejected. If they weren't, the senate would not be doing its job, obviously. And I therefore urge that you defeat the amendment, and you will then have an opportunity to vote on this other proviso at a later time.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: Mr. Chairman, I wanted to make a few remarks on the statements made by the committee chairman, and also to those by Senator Hutchinson, but I believe that rather than do that at this point, the reason I want to make the remarks, if I may state it, is because of the number of figures and the statements that have been made, that they were not unreasonable and so forth, and I could go into it in detail, but rather than do that at this time, I think that I will just now move that the committee rise.

CHAIRMAN MILLARD: The question is on the motion that the committee do now rise. All in favor will say aye. Opposed, no. The Chair is in doubt.

MR. MARTIN: Mr. Chairman, I didn't make the motion, but if Mr. Marshall will agree, why, I will join in the motion at this time. If he has a long speech to make and wants to carry on here—

CHAIRMAN MILLARD: This is not debatable, gentlemen. The Chair put the motion, is in doubt and is calling for a vote. All those who are in favor that the committee do now rise vote aye, and those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the motion that the committee rise, the yeas are 62; the nays are 50.

CHAIRMAN MILLARD: The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

MR. GOVER: Preferential motion, Mr. President.

PRESIDENT NISBET: It is not in order until we get the report from the committee of the whole. Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration certain matters on which the secretary will make a report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 71;** has considered several amendments thereto; has come to no final resolution thereon. That completes the report of the committee of the whole.

PRESIDENT NISBET: The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. President and members of the convention, I would like to make a suggestion for serious consideration by the officers of this convention, and by the leadership of both political parties, hoping that they will indicate to the delegates early next week the feasibility of the suggestion I am about to make.

I believe that 144 delegates, after devoting almost 6 months and 106 working days to the development of the new constitution—now would like to do everything possible to assure the best constitution that we can write—in the best interest of all of the 7.8 million people of Michigan—who are first of all citizens—wage earners, parents—primarily interested in the long time best interests of the state. The vast majority of Michigan people are only casually interested in partisan political organizations.

I think there would be real gain—offsetting some of the undesirable features. I offer this suggestion for whatever consideration it deserves:

1. That beginning next Monday, this convention go on a new daily work schedule: mornings from 9:00 to 11:30; afternoons from 2:00 to 4:30; evenings from 7:00 to 9:30.

2. That we complete first reading consideration on all matters and hopefully second reading consideration of the total constitution.

3. That we recess this convention by April 15 and remain in recess until November 12.

4. That the committee on style and drafting assemble a tentative constitutional document for the information of all the people of Michigan so that they may have an opportunity to give all delegates their guidance in the recess interim.

5. This schedule, if approved, should conserve sufficient salary funds to pay delegates' salaries and provide for the required funds for one month's staff beginning November 12. It is my belief that this convention could, if it would, complete its work in that month.

6. This calendar would have 2 obvious advantages:

a. It would permit public reaction to all our tentative decisions for our guidance.

b. It would complete our work on the constitution much closer to the April election when it will be voted on by the people and maintain public interest in its approval.

The obvious disadvantages would include, among others, the giving up of this hall, the problem of restaffing the convention for the November session, and the personal inconvenience to the delegates.

If this suggestion has merit, I hope it will prevail. If it is impractical, it should be rejected. I am not offering it as a resolution but only as an informal suggestion with the request that our leadership consider it and report to us early next week a considered appraisal of its advantages and disadvantages.

PRESIDENT NISBET: Thank you, Dr. Hannah. Your suggestion will be taken under consideration and a report made back to the convention early next week.

Announcements.

SECRETARY CHASE: The committee on style and drafting will meet Monday, March 26, at 1:45 p.m., in room K. Mr. Cudlip, chairman.

We have the following requests for leave: Mr. Ford requests to be excused from Monday's session; Mr. Kirk requests leave from the afternoon session of Monday to attend a special meeting of the board of supervisors; Mrs. Judd wishes to be excused from the afternoon session of Monday; and Mr. Suzore wishes to be excused from the session of Monday.

PRESIDENT NISBET: Without objection, they will be excused.

Mr. Wanger.

MR. WANGER: Mr. President, could the secretary supply copies of Dr. Hannah's suggestion to all the delegates?

last few weeks we have had a number of citations awarded, a number of honors recognized, some announcements made. I have an announcement which I think will be of interest to you. If you recall, when we opened this convention, the president of the convention in his opening talk illustrated his talk by drawing on his experience as an athlete and had a great deal to say about baseball. Dr. Stephen Nisbet, our president, has 9 grandsons without interruption or break: 1, 2, 3, 9. He has his baseball team, but no manager or umpire. Saturday the manager and umpire was born in a 9½ pound daughter to his son in Ypsilanti. Congratulations. (applause)

PRESIDENT NISBET: Thank you, Dr. Anspach and delegates. Many times I am not formal, but I know I am not today.

The Chair recognizes Mr. Tubbs.

MR. TUBBS: Mr. President and fellow delegates, you have already received or will receive in your mailbox a pamphlet that looks as if it might be a sermon by the preacher of the Fountain Street Baptist Church of Grand Rapids. This is not a sermon. This is a scholarly dissertation on conservatives and liberals. Dr. Littlefair was a doctor of philosophy before he became a preacher, and this is a philosophical thing. I hope you will read it, and that after you have read it perhaps you will have a little less temerity or little less something before you call one of your neighbors either a conservative or a liberal.

Now, of course, those of us who have been around a long time know that a conservative is a man who wears both suspenders and a belt, and some of us in the back seats here have always wondered why Claud Erickson didn't become a conservative. So, in order to do something about it, and perhaps to prevent him from pulling up his pants every time he comes up the aisle here as if he fears that he might not make it to the door, or wherever it is he is going, Jim Thomson and Ray Plank are now going to present him with the reddest pair of suspenders we could find. (laughter)

MR. PLANK: Mr. President, we need a lady with some thread and some buttons. Mrs. Butler, would you volunteer?

MR. ERICKSON: Well, I suppose all these things call for remarks. I know during the campaign I went up to the office of one businessman in town here, and he said, "I would like to have you run as a conservative and let everybody know you are a conservative." I said, "No, I am not going to do that." I said, "Anybody who runs as a conservative has 2⅞ strikes on them to start with, but any time I walk in anywhere they see I have been wearing a bow tie, and I have been wearing a tie like this since 1920, and the stogies I like to smoke, they started making them in 1840, and I have been smoking them since 1926, and I pay an extra $5 or $10 to have a doublebreasted suit made, and I am still old fashioned enough to wear a pocket watch, and who else in the community carries a cigar cutter at the end of his watch chain." (laughter)

PRESIDENT NISBET: Dr. Anspach.

MR. ANSPACH: Mr. President and fellow delegates, when you were asking for thread and buttons to properly equip Mr. Erickson, it brings up the story of this man who took his wife to a dance at this hotel, and going up the open stairway he slipped and hit his knee on the edge of the step and tore his trousers. So they got upstairs, and his wife said, "That doesn't look very good, Bill. Perhaps I can get a needle and thread and sew that up." So he got hold of a hotel maid who said, "Certainly." So the hotel maid brought her some thread and thimble, and the wife said, "Now, where can I go? If my husband can take off his trousers, I can repair them." "Well," the maid said, "you are a bit early. I think it will be all right to go in the ladies' lounge." So they went in the ladies' lounge. He took off his coat and took off his trousers. She started to sew. There was a knock on the door, and the maid said, "You will have to get out of there. There are 2 women who want to get in immediately," and the wife got excited, looked around, saw a door, and she said, "There's a closet." She shoved him through this door. He immediately started pounding on the other side of the door, and she said, "You can't come in here. There are 2 women in here now." He said, "Forget the 2 in there, I am in the middle of the ballroom floor and there are 150 out here." (laughter)

PRESIDENT NISBET: Reports of standing committees.

SECRETARY CHASE: No committee reports, Mr. President.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: Third reading.

SECRETARY CHASE: Nothing on that calendar.

PRESIDENT NISBET: Motions and resolutions.

SECRETARY CHASE: Nothing.

PRESIDENT NISBET: Unfinished business.

SECRETARY CHASE: None.

PRESIDENT NISBET: **General orders.** Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of taking up matters on the general orders calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Millard. Those in favor will say aye. Those opposed, no.

The motion prevails. Mr. Millard.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MILLARD: The committee will be in order, and the secretary will read.

SECRETARY CHASE: Under the consideration of the committee of the whole at this time, is Committee Proposal 71, a proposal to provide for the election, term and duties of state officers, allocation of departments, et cetera, and immediately pending was an amendment from minority report C, as follows:

1. Amend page 3, line 11, after "law.", by striking out the balance of the paragraph.

For last previous action by the committee of the whole on Committee Proposal 74, see above, page 1856.

CHAIRMAN MILLARD: At the time that this committee arose last Friday, Mr. Marshall was the first one on the list, and the only one on the list. The Chair will recognize the delegate from Taylor, Mr. Marshall.

MR. MARSHALL: I think I will surprise the committee and have nothing to say.

CHAIRMAN MILLARD: The question is on the minority report amendment. All in favor will say aye. Opposed, no.

The amendment is not adopted. Are there any further amendments to paragraph 5?

SECRETARY CHASE: Mr. Downs offers the following amendment:

1. Amend page 3, line 11, after "law.", by striking out "The single executives heading principal departments shall include a secretary of state, a state treasurer, and an attorney general."; and in line 16, after "shall be" by striking out "nominated and, by and with the advice and consent of the senate,"; so that the language will read:

> The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. When a single executive, other than an elected official, is the head of a principal department, he shall be appointed by the governor and he shall serve at the pleasure of the governor.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Ladies and gentlemen, this was part of the minority report, and so with the permission of the committee, and to save time, I will withdraw this at the present time and withhold it until the committee arises.

CHAIRMAN MILLARD: The proponent of this amendment, Mr. Downs, withdraws this minority report amendment, and if there is no objection it will be withdrawn. It is withdrawn.

SECRETARY CHASE: Dr. Nord offers the following amendment:

1. Amend page 3, line 17, after "advice" by striking out "and consent"; so that the language will then read:

> When a single executive, other than an elected official, is the head of a principal department, he shall be nominated and, by and with the advice of the senate, appointed

by the governor and he shall serve at the pleasure of the governor.

CHAIRMAN MILLARD: The Chair recognizes the proponent of this amendment, Dr. Nord.

MR. NORD: Mr. Chairman, we have had a considerably long debate on the subject of whether or not we want advice and consent, and we found that some delegates want advice and consent and some delegates do not want advice and consent, and therefore it occurred to me to offer this as a compromise. It meets 50 per cent of each group's position. You don't have advice and consent, but you have half of it; you have advice. Therefore, I believe that is a 50 per cent compromise, and I urge the support of this amendment.

PRESIDENT NISBET: The Chair will recognize Mr. Martin.

MR. MARTIN: Mr. Chairman, this would destroy the advice and consent provision entirely. I am sure the committee would be opposed to it.

CHAIRMAN MILLARD: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. Chairman, I have a substitute amendment I presented to the secretary for Dr. Nord's amendment. I would like it read now, if it is in order.

SECRETARY CHASE: Mr. Downs offers the following substitute for Mr. Nord's amendment:

1. Amend page 3, line 17, after "and" by inserting "/or"; so that the language will read, ". . . advice and/or consent of the senate. . . ."

MR. DOWNS: Mr. Chairman, I think that Dr. Nord's amendment, while it was a compromise, didn't go far enough; as he admitted it was just a 50 per cent compromise and used the word advice. My amendment, by saying advice and/or consent, has the 50 per cent compromise of Dr. Nord's plus a 100 per cent of including advice and consent, which by my arithmetic comes to 150 per cent compromise. I do, on thinking things over, if my mathematics is right, think that 150 per cent is impossible to compromise, and that should be compromised at 75 per cent. However, on rethinking, the 75 per cent perhaps cuts it a little too low, and halfway between 75 and 100 per cent is 87½ per cent, which rounds out to 87.9 per cent, which seems like a very reasonable compromise and should have the support of the committee, or if the committee would prefer, I would be glad to withdraw the amendment. (laughter)

CHAIRMAN MILLARD: Does the Chair take it you are withdrawing the amendment, Mr. Downs?

MR. DOWNS: Yes, I do.

CHAIRMAN MILLARD: If there is no objection, Mr. Downs' amendment is withdrawn. Mr. Nord.

MR. NORD: In view of the fact that an 87.9 per cent compromise has been withdrawn, I don't see that my 50 per cent looks very good any more, and I will withdraw that, too.

CHAIRMAN MILLARD: If there is no objection, the amendment offered by Dr. Nord is withdrawn. The secretary will read.

SECRETARY CHASE: Messrs. Follo, King, Stamm and Sterrett offer the following amendment:

1. Amend page 3, line 17, after "consent of the" by striking out "senate" and inserting "house of representatives"; so that the language will then read:

. . . he shall be nominated and, by and with the advice and consent of the house of representatives, appointed by the governor and he shall serve at the pleasure of the governor.

CHAIRMAN MILLARD: The Chair recognizes one of the proponents of this amendment, Mr. Follo.

MR. FOLLO: Mr. Chairman, you remember that Friday morning Mr. King suggested that if a member of the minority party would propose an amendment which would substitute the house of representatives for the senate in this advice and consent provision, that he would vote for it. I drafted such an amendment and asked him to join me in it, which he did, and later I found out that Mr. Sterrett plus others had put in a similar amendment and asked to be included in our amendment, to which I consented.

I think you will agree, the house of representatives is more representative of the people than is the senate, and I would personally urge you to vote for this as a means — as a compromise which I think is a real compromise, all joking aside. Perhaps there are others who may wish to speak to this point, also, but that is about all I have to say. I hope that this will receive bipartisan support.

CHAIRMAN MILLARD: Any other of the proponents wish to speak to this amendment? Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I think there is a lot of merit in this amendment. Senator Hutchinson pointed out that — probably quite correctly, and certainly if I indicated that the governor sent names over knowing that they weren't qualified, I did not mean that. I said he knew that they were unqualified or unconfirmable. Senator Hutchinson points out that the governor has never done that; that he has never sent anyone over there that wasn't qualified. He went on to say it was only a difference in philosophy.

Now, I don't know whether the senate ought to reject people because they don't agree with their philosophy or not. But let's assume that this is their function; that because of a difference in philosophy the governor's nominees should be rejected. Perhaps this is all right. Perhaps the legislative philosophy, when it is in conflict with the governor's philosophy, ought to be determinative. But I think that perhaps if we are going to advise and consent based on philosophy, that the makeup of the body which does this ought to be such that all kinds of philosophies can conceivably be represented, and I think that because of that we ought to give careful consideration to moving this very necessary function, this advice and consent function, over to the house, which is most nearly apportioned according to population. By so doing, it seems to me that we will have all the advantages of advice and consent, and there are many, and, at the same time, this power will be lodged in a body which can be flexible to the needs of the people of the state of Michigan as those needs may change from time to time.

Now, I don't quarrel with the proposed apportionment of the senate. I think it is absolutely essential that something besides just pure population be taken into consideration. I think it is essential that sparsity be considered. I am aware of the fact that the U.P. is larger than Massachusetts, Rhode Island and Connecticut put together, and because of the geographic problems involved, it would be extremely difficult for one senator to represent this area. However, I am not at all in sympathy with a particular philosophy growing out of the rural nature of this type of apportionment plan dominating the wishes and desires of the governor when it comes time for him to make his appointments. I am not at all sure that I could get senate confirmation if need should ever arise — and I don't anticipate it ever will. My philosophy might not be in agreement with the philosophy of the senate. I think we would do well, and I really think we would be doing the majority party a great favor if we switch this advice and consent function over to the house.

CHAIRMAN MILLARD: The Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, while the Follo-King amendment doesn't meet all the needs that I think it should — it leaves something to be desired insofar as my concern in the matter would be, but I believe that it is an attempt to reach a compromise, as Delegate Follo stated in his opening remarks. It takes care of several things, and we were not objecting, or I was not objecting, to the consent and advice in the senate, other than the question that I raised on the floor here last week, of the obvious abuse of that power by the senate; the fact that the senate was not truly representative of the people. I think in this compromise, this compromise amendment of Delegates King and Follo, that it does come closer to meeting some of the basic objections of the people of the state that have been opposed to the consent and advice in the senate — and what I choose to call the abuse of it — and taking into consideration some of the remarks that Delegate King made in regard to those made by Senator Hutchinson on Friday where there was a difference in philosophy. I believe in this area that if it was passed over to the house

of representatives, there you have a broader cross section of the different philosophies — political philosophies — in the state.

In respect to the sparsely settled areas of the state having a more equal voice, particularly as it pertains to consent and advice, I think that this amendment would also do that; it would give the sparsely settled areas a greater voice on the question of consent and advice. For example, in the U.P. you have several members in the house of representatives, but as I understand it now, I think there are only 2 or 3 senators.

While this does leave much to be desired, I am hopeful that the house of representatives before this convention is over will at least be on a population basis, and realizing that I am not sticking by what I argued here on Friday and Thursday and Wednesday of last week, and the hard fight that I put up to have the minority report amendments accepted by this convention — I still believe in the minority report; I still believe that I was right — but for the sake of compromise, and in order to move along in the convention and to not belabor this issue any further, I would at this time be happy to support the Follo-King amendment, and ask all of the other delegates to take a close look at it as being a reasonable compromise and being one that will at least give a broader cross section of thinking and philosophy when it comes to the question of ruling upon the governor's appointees, and that we not continue what we have had in the past where people were rejected in many cases, I assume, primarily because of the difference of philosophy with those who control the vote in the senate. Therefore I am happy to support the Follo-King amendment as a compromise in the sense that it was stated by Delegate Follo.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Detroit, Delegate Sterrett.

MR. STERRETT: Mr. Chairman and members of the committee, I was very happy that Mr. Follo accepted Mr. Stamm and I along with he and Mr. King as proponents of this amendment because, as I was listening to the debates last week, and also thinking about this in the committee when we reported it out, I wasn't completely satisfied with the advice and consent of the senate. I am very glad that we have stated what we mean by advice and consent at the end of the executive article —or at the end of this executive proposal. It would be clearly outlined then. Also, I would like to state I am not opposed to the senate activities. I think we have some very responsible people in the senate, and I am very happy that we have a senate as we have, and I am happy we have the legislative organization proposal for reapportionment of the senate on the basis which is coming out, but I do feel that the principle of the advice and consent in the senate is not correct. I feel that this should be in the house of representatives because in appointing and giving consent to department heads it is necessary to recognize that the department heads represent all of the people for which they administer this department. Therefore the legislative body most closely representing the people should have the advice and consent privilege, and according to the committee proposal the house will have the closest reapportionment to true population. This is the particular reason why I feel that we should support this amendment for the house of representatives having advice and consent in lieu of the senate.

I would also like to point out here that there has been a small compromise worked between the minority party and probably the minority of the majority only.

CHAIRMAN MILLARD: The Chair will recognize the delegate from Kalamazoo, Mr. Stamm.

MR. STAMM: Members of the committee and distinguished alumni of the Michigan senate, one of the greater criticisms which has been repeated here not once but many, many times is the autocratic power of the state senate in the matter of advice and consent. Whether it is autocratic or not is not a decision of the convention, but a matter of the decision of the individuals in the convention. I have witnessed many appointees left dangling over a seat on a board or commission while a committee of the state senate concerned itself with the appointees' political and social philosophy and personal morals. I realize that many feel that a certain amount of checks must be exercised over the governor, and I am a party to the amendment, and as a compromise to the differing ideas in this convention, may I ask that you support this amendment.

CHAIRMAN MILLARD: The question is on the Follo-King amendment. Mr. Martin.

MR. MARTIN: Mr. Chairman, this amendment, of course, would change a traditional method of advice and consent which has been in effect in Michigan for over 125 years. There never has been any question about the fact that the senate ought to be the body to confirm or reject. I pointed out the other day that in the last 5 years out of 579 appointments or nominations only 11 had been rejected; which doesn't seem to be an unreasonable number. It seems to me that there is no crying need for shifting from the practice that we have had for these many years and moving this over to the house, and for that reason the committee took the position, after considering this—it was suggested and debated in the committee—the committee took the position that the senate should be the body to confirm; providing, of course, that the procedure used was to give them a power to reject by a majority vote, which would make it necessary to act on these matters rather than to let them dangle, as one of the proponents of the amendment has suggested. We are doing away with the dangling, and that being done, it seems to me that the committee proposal is in order and ought to be supported, and the amendment defeated.

CHAIRMAN MILLARD: The question is on the Follo-King amendment. Mr. Madar.

MR. MADAR: Just a little rebuttal to Mr. Martin. I rather like the way he puts this about the tradition, and yet, you know, it is a strange thing that Mr. Martin drives an automobile. I am surprised that he refuses to drive horses. Horses were used for a good many years in the state of Michigan. Just imagine what would have happened if we had continued with that old tradition of driving horses and not doing anything about automobiles. I don't think Mr. Martin would even be here today.

CHAIRMAN MILLARD: The delegate from Pontiac, Mr. Kuhn.

MR. KUHN: Mr. Chairman and members of the committee, I rise in opposition to this amendment. To me it is just window dressing; a lot of applesauce. The man who has been harassed, if anybody has been harassed, would be Governor Williams, and it was my understanding that Governor Williams went on record testifying in favor—that the senate have the power of giving advice and consent on the appointments of the governor. So, since the only man that I can recall in modern times, even in the history of Michigan, who would have been harassed by a radical senate, G. Mennen Williams, comes out in favor of the senate having this power, I certainly don't want this kind of window dressing, and I am going to vote to continue the senate with this power.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Mr. Chairman, I have from Delegate Hart what I believe is the copy of the testimony of Governor Williams, and I hope we can set this part straight. It is true, as Delegate Kuhn said, that he spoke for the advice and consent concept, and he said, "That this power can be abused has not denied its general validity." However, he did say on this first point that the legislature should be apportioned, and he said "To be strong the legislature must be equally and fairly apportioned, and without such equal and fair representation it is improbable that the legislature will keep up with its responsibility in a fast moving world." So I do think we must see that part in context. I believe those who spoke for advice and consent by the house did it on the assumption that the house would be based on a population basis, as contrasted to the senate. I just wanted to make that point clear.

CHAIRMAN MILLARD: The question is on the Follo-King amendment. All in favor will say aye. Opposed, no.

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support? Sufficient number. The question is on the Follo-King amendment. All in favor will vote aye, and those

opposed will vote no. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Follo, King, Stamm and Sterrett, the yeas are 51; the nays are 65.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read. Mr. Hodges.

MR. HODGES: It is my understanding that that concludes all the amendments on advice and consent on this section. Is that right?

CHAIRMAN MILLARD: The Chair doesn't know and just asked the secretary.

MR. HODGES: I would have a motion, and I am not sure it will be in order, and I asked the—

CHAIRMAN MILLARD: There is another amendment.

MR. HODGES: On the question of advice and consent?

CHAIRMAN MILLARD: An amendment to this paragraph, Mr. Hodges.

SECRETARY CHASE: The secretary is not too sure, Mr. Hodges.

MR. HODGES: Is this the one from Mr. Brake on the treasurer?

SECRETARY CHASE: No, this is Mr. Faxon's amendment. He just sent it to the desk.

Mr. Faxon offers the following amendment:

1. Amend page 3, line 16, after "department,", by striking out the remainder of the sentence and inserting "he shall be appointed by the governor which appointment shall stand confirmed unless rejected by a 2/3 vote of the senate within 60 legislative days of such appointment.".

CHAIRMAN MILLARD: The Chair will recognize Mr. Faxon.

MR. FAXON: Mr. Chairman, fellow delegates, as another way of keeping the aspects of this in the senate, this would keep the confirming powers in the senate where it's been, but it would set up an unusual majority for denying confirmation. I think that this would, at least in my own mind, make possible a more considered judgment on the part of the senate with regard to denying confirmation. The unusual majority then would constitute a check upon the governor's power if there was just any old appointment put in. I am sorry you can't see it on the wall because I just turned it in. I had it written out and I forgot to turn it in last week. I didn't realize we would get to it this soon. But what it does is simply to say that the governor's appointments will stand unless rejected by the senate within 60 days, but such rejection would require a 2/3 vote of the senate to reject. And this way, we would still keep the power in the senate; they would still have what they have had, except that they would need 2/3 of the vote to reject a gubernatorial appointment.

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, the committee has as a part of its proposal, at the end of the proposal, a provision to the effect that advice and consent shall involve disapproval by a majority of the senate within 60 legislative days, and I wonder if Mr. Faxon's amendment isn't really out of order, or if he wouldn't like to temporarily withdraw it, in any event. This is coming up. The only difference is that he makes it 2/3 and ours makes it a majority. My point is, we will have to debate it all over again if we debate it now.

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: I yield to Mr. Mahinske.

CHAIRMAN MILLARD: Mr. Mahinske.

MR. MAHINSKE: I would like to direct a question to Mr. Martin. As I understand the ending of this, you are talking about a negative approval for interim appointments only, and I think Mr. Faxon—

MR. MARTIN: No. This covers both, Mr. Mahinske.

MR. MAHINSKE: It covers both?

MR. MARTIN: Yes, it does.

MR. MAHINSKE: Simple majority as opposed to 2/3?

MR. MARTIN: That is the difference.

MR. MAHINSKE: That is quite material, though.

MR. MARTIN: Well, it is a material difference, but the whole question will come up on the committee's own proposal, and I wondered if it won't expedite matters if Mr. Faxon will move to amend at that time to make it 2/3, if he wants to.

MR. MAHINSKE: I will yield to Mr. Faxon.

MR. FAXON: I will withdraw the amendment until we get to the end of the section.

CHAIRMAN MILLARD: If there is no objection, the Faxon amendment is withdrawn. Are there any further amendments to paragraph 5 of section b?

SECRETARY CHASE: None on file, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Hodges.

MR. HODGES: I would move at this time to pass over the question of advice and consent, and if I am in order, also, to move that when this convention adjourns for dinner that it stand adjourned until tomorrow morning in order that many of the delegates could see for themselves how advice and consent is carried out. As you might know, tonight the state senate is going to pass on the question of advice and consent of James Inglis and August Scholle, and I think this might be a demonstration well worth seeing for many of the delegates. I am afraid we're going to take an action precipitously that we will be sorry for later on.

CHAIRMAN MILLARD: The question of adjournment is not put for the action of the committee of the whole, Mr. Hodges.

MR. HODGES: Then I will leave that question until later and move at this point we pass over the question of advice and consent. Pass over section b of Committee Proposal 71 at this point.

CHAIRMAN MILLARD: The only paragraph that had anything about advice and consent is paragraph 5, Mr. Hodges. Are you moving that that be passed?

MR. HODGES: Yes, sir.

CHAIRMAN MILLARD: That is your motion?

MR. HODGES: If that is in order, I would so move.

CHAIRMAN MILLARD: The question is on a motion by Mr. Hodges that paragraph 5 of section b of Committee Proposal 71 be passed over until tomorrow. Mr. Martin.

MR. MARTIN: Mr. Chairman, there are other points to be discussed in paragraph 5, and I think we can go right on or should go right on discussing them. If Mr. Hodges or the proponents of the amendment with respect to advice and consent want to delay consideration on that, they can withhold their amendment and offer it later on in the discussion of this proposal, but I think we ought to continue in the present order of consideration. I would therefore oppose the motion.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: This is a point of information. Am I not correct in noting that advice and consent is also included in the next paragraph as well, that is, the sixth paragraph, and, if so, would not Mr. Hodges—

CHAIRMAN MILLARD: Mr. Hodges.

MR. HODGES: Well, Mr. Chairman, in order to clarify the thing, I will withdraw my motion at this point and offer it before final determination; just when we get to the point where it is.

CHAIRMAN MILLARD: Are there any other amendments to paragraph 5?

SECRETARY CHASE: Messrs. Brake, Durst and Karn offer the following amendment:

1. Amend page 3, following line 18, by inserting a new paragraph to read as follows:

"The state treasurer shall be appointed by the governor with the advice and consent of the senate for a 4 year term coterminous with the term of the governor.".

CHAIRMAN MILLARD: The Chair recognizes the proponent of this amendment, Mr. Brake.

MR. BRAKE: Mr. Chairman, that was handed to the secretary a long time ago. I think Mr. Martin has taken care of everything that any of my amendments on this page have to do with. So can I withdraw that, please?

CHAIRMAN MILLARD: You withdraw this?

MR. BRAKE: Yes.

CHAIRMAN MILLARD: The Brake amendment is withdrawn if there is no objection. There appears to be no objection. Are there any further amendments?

SECRETARY CHASE: Not to paragraph 5, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: I think the secretary does have — are we talking about paragraph 5 of the —

CHAIRMAN MILLARD: Paragraph 5 of section b of Committee Proposal 71.

SECRETARY CHASE: Paragraph 6 begins in line 19, and we have several amendments pending to that, Mr. Martin.

MR. MARTIN: Oh, yes. Well, that is what I thought we were moving to. I thought we had moved to that paragraph. I'm sorry.

CHAIRMAN MILLARD: If there are no further amendments to paragraph 5 of section b of Committee Proposal 71, it will be agreed to.

Paragraph 5 of section b, as amended, is agreed to. The secretary will read.

SECRETARY CHASE: Pursuant to minority report C of Messrs. Marshall, Greene, Kelsey, Perlich, Wilkowski, Miss Hart and Mrs. Daisy Elliott,

Mr. Marshall offers the following amendment:

1. Amend page 3, line 20, after "shall be" by striking out "nominated and, by and with the advice and consent of the senate,"; so that that sentence would read, "When a board or commission is at the head of a principal department, the members thereof shall be appointed by the governor."

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: Mr. Secretary, the paragraph hasn't been read as yet.

SECRETARY CHASE: I beg your pardon. Paragraph 6.

[Paragraph 6, section b, was read by the secretary. For text, see above, page 1766.]

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, the amendment just read is an amendment to strike out advice and consent, and our objections to that would be the same as with respect to —

CHAIRMAN MILLARD: Mr. Martin, you are the proponent of the committee proposal, paragraph 6. Do you want to talk to that or not? The minority report amendment is not in yet.

MR. MARTIN: I think, Mr. Chairman, I would only say this with respect to this section: it deals with the heads of principal departments where that head is a board or commission, and it provides there, as it does with respect to single heads in the paragraph above, that there shall be advice and consent to the nomination by the governor of members of such boards and commissions. The further provisions of the paragraph have to do with the chief executive officers of such boards and commissions, and I understand that there are some amendments with respect to that portion of it. I have no further comment to make on the section, at least until the additional amendments have been discussed.

CHAIRMAN MILLARD: The secretary will read the first amendment to paragraph 6, the minority amendment offered by Mr. Marshall.

SECRETARY CHASE: Minority report C amendment:

[The amendment was again read by the secretary. For text, see above.]

CHAIRMAN MILLARD: The Chair will recognize the delegate from Taylor, Mr. Marshall.

MR. MARSHALL: I will be very brief on this one. I have given all the argument heretofore that I could possibly give to try and prevail upon the delegates to help us make the executive stronger. I think, and the argument is the same, that if the consent and advice was removed, and the governor had the full authority to appoint his department heads, that we would strengthen the governor, and I again do not see how we can strengthen the governor by giving a malapportioned senate veto power over his appointees.

CHAIRMAN MILLARD: The question is on the minority report amendment. All in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read.

SECRETARY CHASE: The secretary has an amendment by Mr. Downs.

MR. DOWNS: Mr. Chairman, may I ask that that also be withdrawn since that is similar to the minority report amendment?

CHAIRMAN MILLARD: If there is no objection, the amendment offered by Mr. Downs is withdrawn.

SECRETARY CHASE: Mr. Brake offers the following amendment:

Amend line 23 —

MR. BRAKE: Mr. Chairman, I withdraw that amendment.

CHAIRMAN MILLARD: You withdraw this, Mr. Brake?

MR. BRAKE: Yes.

CHAIRMAN MILLARD: Mr. Brake withdraws his amendment to paragraph 6.

SECRETARY CHASE: Messrs. Durst and Hatch offer the following amendment:

1. Amend page 3, line 24, after "of" by striking out "a" and inserting "an elected"; and in line 26, by striking out "as prescribed by law"; and in line 27, after "governor" by inserting a period and striking out the balance of the sentence and inserting "Approval of the governor shall not be required with respect to the chief executive officer of an appointed board or commission heading a principal department.

No member of any board or commission created or enlarged after adoption of this constitution shall have a term longer than 4 years. The terms of members of existing boards and commissions, other than as provided in this constitution, which are greater than 4 years shall not be further extended.".

CHAIRMAN MILLARD: The Chair will recognize the proponent of the amendment, Mr. Durst.

MR. DURST: Mr. Chairman, members of the committee, the amendment is offered, we think, in the line of balancing here the various powers between an appointed and an elected board. What it does, very simply, is when the board is an elected one, such as the state board of education, it would give to the governor the right to approve the state superintendent of public instruction, for instance, when he is appointed by the board. On the other hand, when it is an appointed board — we assume that when an appointed board is created, it is done to insulate the department in some way from the governor — we feel here it would be desirable that the chief executive officer of this board be appointed by the board without the consent of the governor.

The second part of the amendment, which Mr. Hatch will speak on, limits the term of years of an appointed board, so that we feel the governor would have sufficient authority in this area. We feel the amendment would give balance between the elected and appointed boards in this particular area. I yield to Mr. Hatch.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Marshall, Mr. Hatch.

MR. HATCH: Mr. Chairman, I would like to address my remarks to the second paragraph displayed on the wall. It provides that no member of any board or commission created or enlarged after the adoption of this constitution shall have a term longer than 4 years, and that the terms of members of existing boards and commissions, other than as provided in this constitution, which are greater than 4 years shall not be further extended.

First of all, I would like to say what this part of the amendment does not do. It does not affect the elected boards, the state board of education or the civil service commission, except that their terms could not be extended. It does not affect the terms of existing boards that may be continued under a reorganization.

What it does do, however, is affect any board or commission now in existence in that the term of its members may not be extended beyond 4 years, and it will affect newly created boards and commissions to the extent that the terms

of the members of the boards and commissions cannot exceed 4 years. The purpose of this amendment is to give the governor some semblance of control over boards and commissions. Now, if they have terms of more than 4 years, they may very well be in a position where they can act contrary to the policy or the philosophy of the governor, and we feel that where boards are heading principal departments, it is preferable that he have the appointive power over them, and that they be, in a sense, responsive to his general overall supervision; which would be much more difficult if the terms of the commissioners or board members exceed a 4 year period.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, this recognizes the fact that where you have an appointive board or commission, if the governor has adequate authority with respect to such appointments he need not have the authority to approve the executive director, because his contact with the board and his influence with the board comes through his power of appointment of board members, and we are enlarging the term of the governor so that he gets an additional authority to make appointments, and it would appear, therefore, that this more probably balances the authority of the governor and the authority of the boards than the proposal as it stands in the original committee report.

These 2 paragraphs, I think, taken together, accomplish that, and do not detract from the governor's authority, don't add to it materially, but they do balance it up in a somewhat better fashion, and at the same time make it clear that, where there is an elected board, the governor should have some authority with some responsibility with respect to the appointment of that member of the — I mean, of the executive director of such an elected board. The 2 taken together, I think, make good sense and ought to be approved.

CHAIRMAN MILLARD: The Chair recognizes the delegate from Owosso, Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I, first of all, have a question for the gentleman from Marshall, Mr. Hatch, and then I wish to speak on the first portion of the previous amendment.

CHAIRMAN MILLARD: If Mr. Hatch desires to answer.

MR. BENTLEY: Mr. Chairman, I would like to ask the delegate from Marshall with respect to that portion of the amendment on which he spoke if he will recall in the educational article we provided for several boards, all of 8 year terms, some of which were increased from 6 to 8 years, such as the board of trustees, the board of governors of 2 of our large institutions, and several of the other governing boards of the colleges, and also the term of office for the state board of education was increased from 6 to 8 years. I would like to ask the gentleman if, in view of the words "other than as provided in this constitution," this would take care of all changes that have been made within the executive article which has previously been approved by the committee of the whole, and there is nothing in this proposed amendment which would contravene the action already taken?

MR. HATCH: Mr. Chairman, Mr. Bentley, yes.

MR. BENTLEY: Thank you, Mr. Hatch. Mr. Chairman, I would like now to speak on the first portion of the amendment presented by the gentleman from Adrian, Mr. Durst, which, as far as I know, has direct and possibly sole reference to the state board of education, since it is an elective board.

Mr. Chairman, Mr. Durst, the members will recall that the committee on education believed that there should be some area of executive responsibility in the field of public education; some tie in so far as the governor was concerned, and to that end we recommended to the committee of the whole that the governor be a member of the state board of education. In its wisdom the committee of the whole decided to delete that particular recommendation from the proposal of the committee on education, leaving the governor then with no direct responsibility in this important field.

It is not my intention to oppose this particular amendment, Mr. Chairman, since the committee on education has admitted — that is, the majority of the committee has admitted — that there is and should be an area of responsibility, an area of executive tie in or liaison, whatever term you wish to use. I may say, speaking personally — and I don't know how many members of the committee on education — I don't know how many of their views I reflect — I do not feel that this is necessarily the final or the perfect solution for establishing this area of liaison or this area of responsibility on the part of the governor in the field of education.

It is not my intention, as I say, to oppose the amendment at this time, since I am not prepared to offer a preferable alternative, other than, of course, the committee's original proposal which was voted down by the committee of the whole. But I would like to say, speaking as an individual, and I hope reflecting the viewpoint of the majority of the committee on education, I think this question is something that should and must have further examination, further consideration. I would very much hope that this matter will be further examined, if it is now passed, prior to the time it returns on second reading — and it is very possible that there may be a change in this particular matter offered at that time. I would hope that the gentleman from Adrian would also agree with me, as well as the chairman of the committee, that this does not represent, necessarily, a final solution, but it does thus repeat the fact that there should be liaison with the governor and, although it is not in the form the committee on education originally recommended, I am prepared to accept it at this time. But, as I say, I want another chance to give it further consideration, further examination, and it may be that we will have perhaps a better solution or better suggestion to offer when this matter comes up on second reading. Is that the understanding of the chairman of the committee? I would be glad to yield to him for a comment, Mr. Chairman, if he cares to make one.

MR. MARTIN: Mr. Chairman, Mr. Bentley, I think that the problem which you raise has been properly taken care of in these amendments. I think I should add with regard to them that they represent compromise of conflicting points of view as to how this matter should be handled and that, taken together, they adequately cover the varying points of view which have been compromised on this particular point. I think that so far as your statement is concerned, I understand that you may want to raise the question again, but I think that the matter is satisfactorily disposed of in the language here presented.

MR. BENTLEY: Mr. Chairman, I regret that I cannot agree with the chairman of the committee, and would like to ask him 1 or 2 questions along this line, if he cares to answer them. Mr. Chairman, I wonder if the gentleman from Grand Rapids would give me an answer to the following hypothetical case? Suppose that the state board of education, with the approval of the then governor, contracted for the services of an individual to serve as the superintendent of public instruction and, to obtain the services of a highly qualified individual, it was found necessary to offer him a term of rather long duration, perhaps a contract of 8 or 10 years. After a 4 year period we had a change in administration, would that contract be valid, Mr. Martin?

MR. MARTIN: I think there is no question about that, Mr. Bentley. I am sure the contract would be a valid one, and that the contract having been properly entered into, there would be no new appointment to approve until the contract had expired.

MR. BENTLEY: I would like to ask the gentleman further, Mr. Chairman, if I may, and that is, exactly what would the approval of the governor indicate? Would it mean that he would have an absolute veto power over the choice by the state board of education if that were unanimous, if he so desired to exercise it?

MR. MARTIN: My understanding is it would be a right of rejection. It would not be a right to appoint or nominate, but it would be a right to reject if he found that the proposed individual was totally unacceptable for one reason or another.

MR. BENTLEY: Well, I feel I have no further comment, Mr. Chairman, other than to say that I cannot agree with my good friend from Grand Rapids that this is a closed matter. I don't know how it represents a compromise, and it was

definitely my understanding that this matter would be further considered. I understood, although I may be in error, that the chairman of the committee had agreed to examine this matter further, but we were prepared to accept suggested language at this time for want of a more suitable alternative.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from East Lansing, Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and ladies and gentlemen of the committee, some of the questions that I wanted to ask Mr. Durst have already been asked by Mr. Bentley. I am very much concerned about the potential that appears to me in these words. Most of the people that have been interested in the welfare of education, of both political parties, for a long period of years have felt with a deep conviction that the superintendent of public instruction should be taken out of the area of partisan politics, and this is what the committee on education attempted to do in providing for a state board of education with long terms elected by the people, and with this board responsible for the selection of the superintendent. I haven't any objection if, when the time comes for this board to come up with a new superintendent, the governor has the right to be consulted or participate, perhaps, in the selection, but these words do not do that, as I interpret them. Actually you might just as well make the superintendent of public instruction subject to the direct appointment by the governor, because this is exactly what these words seem to do to me.

Now it is true if Mr. Durst and Mr. Martin's interpretations are followed this state board of education could avoid this if a new governor is elected in November. The board could meet in December, and if it should happen that the superintendent seemed to be in jeopardy because perhaps he would be unpopular with the new governor, they could reappoint him for a period of time, and they might get by with it.

The second paragraph is somewhat related. I can remember very well, and some of the older people in this room can, the chaos that used to take place in Lansing every time we elected a governor before civil service; when all the principal officials of state government were turned out and a whole new crop was brought in if we happened to have a change in political parties. This was not good, and if in this second paragraph the objective is — although it doesn't seem to say this — to terminate the terms of all of these boards and commissions so the new governor or the new party can almost immediately replace the commissioner of agriculture, the superintendent of public instruction, the people in charge of the mental hospitals and all the rest, I don't believe that this is good.

My real concern is, of course, the superintendent of public instruction, and I am not satisfied with the answers that have been given. I have no alternative but, unless there is some absolute protection for all the public education for which this new superintendent is going to be responsible — he is not only going to be responsible for the job that is now the responsibility of the superintendent, but he is going to be responsible as the executive officer of this board; it is going to be the coordinating agency of all public education, from the preschool kindergarten to the graduate schools and universities, and I am as certain as I am standing before you this afternoon that anything that tends to put partisan politics into education is bad. All people have children, and there are 2 issues that have no place in public education. One is partisan politics and the other is religion. And I should dislike to see us move in the direction of making it possible for a new governor, regardless of his intentions, to force a new superintendent of public instruction.

CHAIRMAN MILLARD: The Chair will recognize Mr. Faxon.

MR. FAXON: If I may, Mr. Chairman, I would like to direct a question to Mr. Durst.

CHAIRMAN MILLARD: If Mr. Durst cares to answer.

MR. FAXON: Mr. Durst, is my understanding correct that this entire first section of your amendment really deals only with the state board of education?

MR. DURST: It deals, Mr. Faxon, with the elected boards of state government. As far as I know, that is the only one we have provided for to date that it would apply to.

MR. FAXON: Mr. Chairman, Mr. Durst, that does not include elected boards of control?

MR. DURST: The amendment refers to boards and commissions which head principal departments, and I would not consider the board of regents as heading a principal department of this state.

MR. FAXON: Mr. Chairman, if the amendment deals only with one board, which is the board of education, is it in order at this time for us to consider that as part of this section dealing with the executive branch of government when this deals — a substantial part of it — with education, the board of education? Is this first paragraph in order? We have already dealt with the board of education.

CHAIRMAN MILLARD: Mr. Faxon, we haven't gone through all of the constitution. We don't know whether there will be any other elective boards or not. The Chair doesn't think your point is valid at this time. It might be later.

MR. FAXON: Well, what I meant to say — in other words, up until now we only have one board, and it is possible we may have another one and this would have a broader meaning. But, as I understood it from the rest of the executive article, Mr. Chairman, there weren't any other elective boards provided for, so that, as Mr. Durst said, this dealt only with the board of education. It would seem to me that if this does single out the board of education, we should have considered it under the state board because this deals with the recommendations that have already been approved by the committee of the whole on education.

CHAIRMAN MILLARD: The Chair's ruling was that your point is not valid at this time; not until we do get through with the first reading in committee of the whole, then you can bring it up on second reading if nothing happens along the line. Mr. Durst.

MR. DURST: Mr. Chairman, may I just add for Mr. Faxon that we are dealing here with the executive department, and although education was set up as a separate committee, which it well should be, nevertheless it is part of the executive structure when we get all done and is properly a matter for discussion here in this sense.

MR. FAXON: Mr. Chairman, I might just remark that education is something separate from the executive branch and the executive article, and it has been in the Michigan constitution for as long as we have had a constitution in Michigan. I would hope that the matters dealing with the substance of the education committee report would have been dealt with at the time we were considering the education committee proposal rather than being injected here at this time when we are considering the executive report.

CHAIRMAN MILLARD: Mr. Faxon, the Chair has ruled that this amendment is in order.

MR. FAXON: I would like to comment on this amendment with one further word, which is that as another member of the education committee, I must join with my fellow committee members, the chairman and Mr. Hannah, with regard to making the governor the person to approve of the appointment of the superintendent. I share with them the concern that they displayed already, and I don't think it is necessary to add any more.

CHAIRMAN MILLARD: The Chair recognizes Delegate Wanger.

MR. WANGER: Mr. Chairman and members of the committee, the second part of this amendment is very surprising to me, and I suspect perhaps to many other delegates; for, in reading it, it appears to say that the legislature can never, for any reason, establish a commission or a board in any area, the members of which will have terms which exceed 4 years. Is this a wise restriction to put into the Constitution of the state of Michigan?

Arguments can be made with respect to any particular subject or area, as to whether or not it is of such a nature that the members there should have a 4 year term or a term longer than 4 years. But this language here, it seems to me, is a restriction upon problems which we in all probability

cannot now anticipate. It is something which had never occurred to me at any time before I saw the language upon the wall and heard it read by the secretary, as I am sure is the case with the rest of the delegates, and I am quite concerned about some unpredictable adverse affect which this second half of the Hatch-Durst amendment would have, and I would like to ask, Mr. Chairman, Delegate Durst or, if he would prefer, Delegate Hatch to comment upon this problem.

CHAIRMAN MILLARD: Delegate Durst.

MR. DURST: I will yield to Mr. Hatch.

CHAIRMAN MILLARD: Do you have a question you want to ask Delegate Hatch?

MR. WANGER: Yes. I wish to ask him if he would be so kind as to comment upon this particular problem and to answer the doubts which I have suggested.

CHAIRMAN MILLARD: Mr. Hatch, do you care to answer that, or have you answered it before?

MR. HATCH: Mr. Chairman, it seems to me I have explained the purpose of the amendment. If Mr. Wanger wants me to reiterate that, I certainly can. I might at this point indicate that the intent is not necessarily that when a new governor comes in he is going to be appointing immediately all new members of boards and commissions. I would assume that boards and commissions and the members thereof would have staggered terms, but it would provide a governor during his 4 year term over that period of time to fill the board with his appointees. I think this is consistent with the language which we have used in connection with individuals heading single departments. There the individual heads of the departments will serve at the pleasure of the governor. Now, where you have boards and commissions which the legislature may establish and give a term, we feel that they should not have a term longer than the term of the governor himself. The idea is to strengthen the position of the governor with respect to the boards and commissions in the executive branch.

MR. WANGER: Mr. Chairman, if I may briefly comment, the question which I raised was not with respect to the fact that the terms would be staggered, as undoubtedly in every case or almost every case they would, but is rather with the length of the term itself.

Now, I suggest that there might be times when everyone would agree that a particular board or commission should have a longer term. If this language applies to any possible board or commission which could be established, I would like to ask a further question, Mr. Chairman, of Delegate Hatch, and that is with respect to the second and last sentences of the second half of the amendment which says, "The terms of members of existing boards and commissions, other than as provided in this constitution, which are greater than 4 years shall not be further extended." I would like to ask, does this mean that any statutory board or commission whose members have a longer term than 4 years would continue to have a term longer than 4 years under the amendment which he proposes?

CHAIRMAN MILLARD: Mr. Hatch.

MR. HATCH: Mr. Chairman, I think, Mr. Wanger, that you are correct in that assumption; that if the legislature in a reorganization intended to continue a board or commission which presently is in existence, and which has a term of longer than 4 years, could continue a term greater than 4 years, but it could not be extended further than that; further than what it presently is, in other words.

MR. WANGER: So then, Mr. Chairman, in effect, we are creating an exception to this rule which would provide for existing statutory boards or commissions whose terms are presently longer than 4 years, and this seems to me is a recognition of the fact that there are certain areas in our state where perhaps a longer term would be desirable.

I know this convention is not going to go through every period where the state might, in the future, propose to adopt a board or commission, and in light of the fact that we can not and should not do that, it seems to me that this language in the second half of the amendment is unduly restrictive upon future governors, future legislators of our state who might wish to have commissions in certain areas where the members have terms of greater length. With that in mind, I request that the amendment be divided.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, if I might, I should like to comment on Mr. Wanger's point.

CHAIRMAN MILLARD: There are other speakers ahead of you, Mr. Martin.

MR. MARTIN: I am sorry, Mr. Chairman. We are close to 5:30. I move that the committee do now arise.

CHAIRMAN MILLARD: The question is on the motion that the committee now rise. All in favor will say aye. Opposed, no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration a certain proposal of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 71,** has considered several amendments thereto, has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Are there announcements?

SECRETARY CHASE: Dr. Hannah announces a meeting of the committee on legislative organization which will meet briefly in room D following this afternoon's session. Mr. John Hannah, chairman.

PRESIDENT NISBET: Mr. Hodges.

MR. HODGES: Mr. President, at this time I will renew the request I made that was out of order in committee of the whole. I believe that it would be much more profitable rather than discussing the question here, for many of the delegates to see it in action tonight in the state house. Therefore I would move we adjourn.

PRESIDENT NISBET: The question is on the motion of Mr. Hodges to adjourn. Those in favor will say aye. Opposed, no.

The motion does not prevail. The Chair recognizes Mr. Spitler.

MR. SPITLER: Mr. President, I move the convention now recess until 8:00 o'clock this evening.

PRESIDENT NISBET: The question is on the motion of Mr. Spitler. Those in favor will say aye. Those opposed, no.

The convention will recess until 8:00 o'clock.

[Whereupon, at 5:30 o'clock p.m., the convention recessed; and, at 8:00 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

During the recess Mr. Lesinski filed a request to be excused from part of the evening session.

PRESIDENT NISBET: Without objection, the request is granted.

The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, before we go into the committee of the whole this evening, I thought it might be well to report to the delegates a conclusion reached by the officers and the committee chairmen at a meeting earlier this evening with respect to the problem of night sessions. As we are all aware, the time consumed by our debate has grown and grown, and in order to complete our work within the time allotted to us we are going to have to spend more time in debate than the daylight hours will permit. As an experiment it has been suggested by the officers and the committee chairmen that we try a night session this Wednesday night. This is simply a word of advanced warning so that you can plan your schedule. This is the only night session currently contemplated for this week, with the exception of this evening's session. This is simply a bit of advanced warning.

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of taking up matters upon the **general orders** calendar.

PRESIDENT NISBET: The question is on the motion of Mr. Millard. All those in favor say aye. Opposed, no.

The motion prevails. Mr. Millard.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MILLARD: The committee will be in order. The secretary will read.

SECRETARY CHASE: Presently under consideration is **Committee Proposal 71,** and the committee had finished the reading of paragraph 6 of section b to which an amendment was offered by Messrs. Durst and Hatch.

[The amendment was again read by the secretary. For text, see above, page 1871.]

CHAIRMAN MILLARD: There are 6 on the list to argue this amendment. First, the Chair will recognize Mr. Garry Brown.

MR. G. E. BROWN: I pass.

CHAIRMAN MILLARD: Delegate Hatch.

MR. HATCH: I pass.

CHAIRMAN MILLARD: Delegate Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, I will be very brief. I rise to oppose the amendment and at the same time — both the first part of the amendment and the second part of the amendment — I would like to briefly point out to the delegates that in discussing the report of the committee on education, we took care of the question of the superintendent of public instruction who would be selected by the board of education. There was considerable debate on the floor of this convention as to whether or not the governor should be a member of the board of education. After thorough debate and discussion pro and con this convention as a committee of the whole decided that the governor should not be a member of the board of education. In trying to follow the debate on that particular issue at that time, I got the opinion that the delegates were trying to remove the school administrator or the superintendent of public instruction or director of education, whatever you might call him; trying to remove him as far from politics as was possible to do so. Now, I am not quite as allergic to politics as some of the delegates in this convention, but I will point out at this time — and my prime reason for opposing the first part of the amendment is that you give the governor — now you have a board of education which this committee has already decided upon who would appoint the superintendent of public instruction — now you give the governor, under this amendment, veto powers over the selection of the board of education. You would have a board of education — and I would assume that most of them, if not all of them, would be educators — who would spend time and effort trying to arrive at the best selection, the best qualified person to fill this post, and then all of their work and effort would be subject to the disapproval or the veto of the governor.

Now, I know there are many men in this room who are just as familiar with the internal operations of politics as I am, and I know there are many of you that are more so, because I can look around the room and see outstanding people like Delegate Hutchinson, Delegate Brake, and many others who have been many, many years in politics. So I would not propose or attempt at this time to try to give these gentlemen any words of advice. But, the board of education could select an outstanding individual who maybe had not been too active politically in either party, but who was an outstanding educator and an outstanding administrator; then the board could, under this amendment, find itself in the position of having political pressure applied to the governor to try and replace its selection, or at least to have its selection vetoed in order to play some political act regardless of party affiliation or the party that might be in control at that time. But there would be enormous pressure in the event that you selected someone who had not been active or contributed or worked in any way in partisan politics.

You can try to dispute this if you like, but I think that the facts and the records of the past would belie this. I think it is a serious mistake to adopt this amendment under these circumstances. I would much rather see the governor have outright appointment power than to see him put in the —to see the board of education put in this position, or to see the guy that they select, the individual they selected to serve — I think this is a step backward, and I am not so sure it isn't a step designed to try and please those who attempted to put the governor on the board of education; because in the committee on executive branch — and if I am incorrect on this statement, I would ask either Delegate Durst or Delegate Hatch to correct me — the many days that we were in committee session and discussing and debating this issue, I don't recall either one of the delegates, and both of them were on the committee, coming forth with this type of suggestion, and it is only at this late date they come forth with this, after the amendment was defeated that would have placed the governor on the board of education.

Believe me — as I said before, I am not as allergic to politics as some of our educators are — but, believe me, if you adopt this amendment where the governor is going to have veto power over the selection of the board of education, brother, you just put this particular position right in the political mill, and don't kid yourselves. I would oppose the amendment on that basis. I would much rather see the superintendent of public instruction elected, elected by the people. Failing in that, I would prefer, if I had to make a choice, I would rather give the governor outright appointive power rather than to come around with this type of what I believe to be a ridiculous scheme.

On the second paragraph — and I am not quite sure that I understand as thoroughly, maybe, as I should the intent of this — I heard Delegate Hatch just before we recessed for dinner explain the last sentence of the paragraph, which reads, "The terms of members of existing boards and commissions, other than as provided in this constitution, which are greater than 4 years shall not be further extended." I believe his explanation was that they would not be further extended beyond what they presently are, whether it be 6 years or 8 years, as the case may be. I don't quite read this that way and I think that what this does is that it is driving at the boards and commissions that are not mentioned constitutionally. I think that you would have a number of them all expiring at one time under this. It takes time, as a matter of fact, on many of these boards and commissions, to learn; it is hard to find all of the experienced, qualified, trained people to place on these commissions, and in many cases you have a training period to go through, and if you are going to have a large number of these boards' and commissions' terms expire all at the end of 4 years, you could have a chaotic condition exist. I think the language — and Delegate Hatch could correct me on this if I am incorrect — completely prohibits or takes away from the legislature the right to create the terms of the boards and commissions by legislative act, and if this is true, I am deeply disturbed, as I have said before.

We have changed practically every single article and paragraph in this constitution in the committees and what we have had in the committee of the whole at this point. I was one of those and I still believe, and believe even more strongly today, that there was no great necessity in the beginning, nor is there a great necessity now, to be making wholesale changes in every single item just for the sake of changing. I have argued before on this floor that many of the things that are in the 1908 constitution, just because they haven't been changed doesn't mean that they haven't been tried, and I can't think of but just a few that we haven't changed here. But on this one, I would urge all of the delegates to give very serious consideration, and particularly on the first paragraph because if it was your desire when the committee on education — and, in closing, if it was your desire when the committee on education made its report to try and remove the school adminis-

trator as far from politics as was humanly possible under our system by having the board of education select a superintendent of public instruction, by keeping the governor off of the board of education, how are you going to accomplish that if you now turn around and give one man, who is the leader of his political party, regardless of the party, the right to veto what the board of education does? I oppose the amendment.

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, I only want to correct Mr. Marshall with respect to the provision of the second part of this amendment. This doesn't provide in any way that all boards shall terminate at a certain time. All this does — and it is very simple, and I think it is all there in the language — is to simply say that new boards and commissions shall not be extended beyond the term of 4 years, and that existing boards and commissions except those which are longer than that in the constitution shall not be further extended. If they are 6 or 7 years, they shan't be made 8 or 9 or 10 years. That is all it does. Unless you do this, the tendency is to get these boards having longer and longer and longer terms, and the final result is that you have the terms so long that the governor, no matter how long he is in office, is unable to appoint even a reasonable number of the members of those boards and commissions. The purpose is not what Mr. Marshall says it is, and it wasn't so intended, I am sure, by the amendment that is proposed.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Stanton, Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, what I had intended to say has just been said mostly by Mr. Martin. If I could read into this language any requirement that the terms of these commissioners should be coterminous with that of the governor I would be as apprehensive as Dr. Hannah as to the results, but I don't see that they mean that at all. I would assume the legislature will stagger the terms, and the principal boards are already set up — conservation, welfare, mental health, public service commission, agricultural commission are already set up — with a longer term, and this does not shorten them. I am in favor of the amendment.

CHAIRMAN MILLARD: The Chair recognizes one of the proponents, Delegate Durst.

MR. DURST: First of all, Mr. Chairman, is it in order to request that this question be divided so that we vote separately on each part of the amendment?

CHAIRMAN MILLARD: Right.

MR. DURST: I would do so at this time.

CHAIRMAN MILLARD: That will be done. The amendment will be divided.

[The amendment is as follows:

1. Amend page 3, line 24, after "of" by striking out "a" and inserting "an elected"; and in line 26, by striking out "as prescribed by law"; and in line 27, after "governor" by inserting a period and striking out the balance of the sentence and inserting "Approval of the governor shall not be required with respect to the chief executive officer of an appointed board or commission heading a principal department.".]

MR. DURST: Thank you. Dr. Hannah has raised a question here regarding the fact that — he raised the possibility that the superintendent of public instruction would be changed every time a new governor comes into office. I would like to state here that it is my understanding and my opinion of this amendment, that what we are doing is providing that when a new superintendent is appointed, that the governor must give his approval. There is nothing here to indicate that he can force his removal or in any way oust the existing superintendent at the time the new governor comes into office. It is limited to just when a new one is being named by the board itself. With that interpretation, which I think is the same as was given by Mr. Martin earlier this evening — I would like to ask Dr. Hannah if with that interpretation he is still dissatisfied with this particular paragraph of the amendment?

CHAIRMAN MILLARD: Dr. Hannah, do you care to reply?

MR. J. A. HANNAH: Mr. Chairman and Mr. Durst, I am satisfied with the answer that is made by Mr. Durst and as made by Mr. Martin if it is clearly understood that what we are talking about is only when the superintendent of public instruction office is vacant, that at that point the governor shall have a role in the selection of the superintendent. I would like to say, however — and this is a little beyond answering Mr. Durst's question — as a member of the committee on education, I vastly prefer the proposal that was made originally by the committee, in which it was felt that education, which spends several hundred million dollars of public money, is so important, not only in the fiscal affairs of the state but from the standpoint of policy, and importance, that the governor should have a role in it. And I was enthusiastic about the idea of making the governor a member of the board, where he would have an opportunity to participate. I was not here when that was debated; not that it would have made any difference whether I was here or not, but it was rejected by the convention. But I would have preferred that to this. But, with this understanding we are talking only about when the office is vacant, I would withdraw my objection, and on the basis of the explanation which was made by Mr. Hatch and Mr. Martin, I am willing to go along with that part of the amendment. I am satisfied on that one.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Detroit, Dr. Nord.

MR. NORD: Mr. Chairman, I rise to oppose the 2 amendments, and particularly the first. It seems to me that the first amendment before us provides, in effect, for advice and consent by the governor. It seems to me that that is a novel feature of our constitution. We have had before us last time and tonight, this afternoon, advice and consent by the senate to a governor's appointment, and 2 arguments that I can recall were made on behalf of that. One of them is that it is traditional, and another is that here you have a chance for a group to exercise some evaluation over the selection by an individual. Those, as far as I can recall, were the 2 arguments in behalf of the advice and consent of the senate over a governor's appointment. But it seems to me that in the present proposed amendment we have exactly the reverse of both scores. Certainly advice and consent of a governor to a board's appointment is not traditional. That is a novelty. That is exactly the reverse of the argument we had on the advice and consent of the senate.

During the dinner hour one of the Republican delegates to the convention mentioned to me that he had not favored advice and consent in the house because it had been a novelty, and advice and consent in the senate is a traditional feature. I simply point out that what we have now is a novelty. It is not a tradition. The more important argument, however, is this: that the real argument in behalf of advice and consent by any house or any board over an appointment made by any individual is that a group has a chance to reconsider what an individual has done. But in this case we have exactly the reverse situation. A group makes the first appointment, and then an individual, the governor, reviews their determination. I can't see the value and the logic of such an arrangement. I believe somebody pointed out, one of the delegates in arguing this pointed out that the reverse situation would be preferable to this; that this doesn't really make any sense. For those 2 reasons, which seem to me are pertinent to this subject, the advice and consent of the governor should not be considered as part of our constitution. In addition, I feel that both the first and the second amendments will tend to introduce politics into the field of education.

Now, some people have said they are allergic to politics and others are not. It seems to me, however, whether you are allergic to politics or not, when it comes to the field of education, everyone must be allergic to politics, because we must have a situation where the minds of the young are left free to grow and to get information which is not limited to what any political group, whoever they may be — it doesn't matter which party — any group of politically minded people might wish them to know. We do need to have politics out of education,

and it seems to me both of these amendments have only as an object to introduce a political personage — the governor certainly will always be a political personage — into education.

The second amendment, it seems to me, suffers from numerous defects. One of them is it certainly is not clear. I still don't know what it means in detail. There are many questions in my mind as to what it means. Maybe some people know what it means, but I think before you vote in favor of it you should ask yourself what it does mean. If you are sure you know what it means, maybe you may be in a position to vote yes. But I am not sure I know what it means. I think it suffers from the defects of ambiguity. In addition, I know that it suffers from another defect; it places a limitation on the legislature which is not needed. There is no need here to place such limitation as 4 year terms for every single board that can be imagined without knowing in advance why we might not wish a longer term. We know, for example, that in the case of the legislative auditor we wish to have a term longer than 4 years. Similarly in some boards we may wish the same thing. For these various reasons, I believe that both of these amendments ought to be defeated.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: I pass.

CHAIRMAN MILLARD: The delegate from Detroit, Mr. Barthwell.

MR. BARTHWELL: Mr. Chairman, fellow delegates, I would like to ask a question of Delegate Durst through the Chair, please.

CHAIRMAN MILLARD: Delegate Durst, if you care to answer.

MR. BARTHWELL: My confusion is, if there is really any difference between the governor appointing the superintendent of public instruction and his selection under this amendment, because, after all it seems to me that what we are making of the state board of education is a select committee for selecting the candidate for the appointment, because if he doesn't meet the governor's approval he can't get the job, I don't think. That is the way it appears to me.

MR. DURST: Mr. Chairman, Mr. Barthwell, I think you are partly correct. Of course, since the approval of the governor is necessary, the appointee, the superintendent of public instruction, must be agreeable both to the board of education and to the governor. There is this difference: that the way it is presently constituted, it would be the board who was seeking out the superintendent, and they would be in a position to convince the governor that this is the person that they should obtain. Whereas, the other way around, it would be the governor independently coming up with a nominee and convincing the board that this is the person they should accept. The greater discretion here, the greater judgment, is in the board of education.

MR. BARTHWELL: Mr. Chairman, I accept partially the explanation, but to me the reality of the facts are that the state board of education is going to select the candidate and present him to the governor for appointment, because if he is not agreeable to the governor, by not agreeing, he can't get the job. So it seems to me like it is the same thing, and since we have voted down the governor appointing the superintendent of public instruction, I would be against this amendment, sir.

CHAIRMAN MILLARD: Delegate Downs.

MR. DOWNS: Mr. Chairman, through the Chair, could I ask Delegate Durst a question?

CHAIRMAN MILLARD: If Mr. Durst cares to answer.

MR. DOWNS: Could the board of education, under the provision we adopted earlier, select a superintendent of public instruction for a long period, say, 8, 10, 12 years?

MR. DURST: Mr. Chairman, Mr. Downs, you mean under this provision?

MR. DOWNS: No; under the provision we adopted dealing with the right of the board of education to select a superintendent of public instruction.

MR. DURST: Mr. Chairman, Mr. Downs, it is my understanding that they could select a superintendent of public instruction for more than 4 years, which is what your question is aimed at. Therefore, if they select him for 8 years there is a possibility that there would be a governor who would have no choice in the appointment of the superintendent of public instruction.

MR. DOWNS: Your answer anticipated my question. I am glad that Delegate Durst pointed that out; that this would have the anomaly that a governor would need to approve the selection of the superintendent of public instruction by the state board of education. However, the state board could have that term far beyond the term of the governor, and a new governor coming in would have nothing to say about who should be the superintendent.

Now on the second part I agree; it's just the matter of the first part as to why the governor should have what Dr. Nord calls the advice and consent of selecting the superintendent. I believe that this amendment is one that would very definitely weaken the state board of education. I, too, thought the superintendent should be elected for the primary reason that that would keep our educational system out of the regular political sphere, and I believe, again, without being overly repetitious, that the state of Michigan has had an outstanding educational system from universities through our lower grades, and one reason for this is we have elected the heads of our educational system as independent constitutional officers that were not dependent upon the other branches of government for policy making other than indirectly on the appropriation. I therefore urge the defeat of this, and the maintenance of our independent educational system. Thank you.

CHAIRMAN MILLARD: Mr. Sterrett.

MR. STERRETT: Mr. Chairman, members of the committee, I am not going to debate on this or go at any length, but I would like to ask Mr. Durst a question through the Chair.

CHAIRMAN MILLARD: If he cares to answer.

MR. STERRETT: Dr. Hannah brought up a point that he understood from you, and I would like to have you once again restate it to the committee: that in the event of a vacancy in the job of superintendent this is the only time that the governor would have anything to say.

MR. DURST: Mr. Chairman, Mr. Sterrett, this is what I stated to be my opinion as to what this means. I believe Mr. Martin has stated it also, and Mr. Hannah has paraphrased it. The only time the first part of this amendment becomes operative is when there is a vacancy in the office of superintendent of public instruction. There is no power here on the part of the governor to discharge a present superintendent.

MR. STERRETT: Mr. Chairman, Mr. Durst, it would appear to me at the end of the term of the superintendent of public instruction there would be a vacancy, so therefore, the governor would always have something to say about the appointment of the superintendent of public instruction.

MR. DURST: Correct.

MR. STERRETT: Thank you.

CHAIRMAN MILLARD: Dr. Pollock.

MR. POLLOCK: Mr. Chairman, could I ask the chairman of the committee, Mr. Martin, a question?

CHAIRMAN MILLARD: If Mr. Martin cares to answer.

MR. POLLOCK: I was a member of the committee on the executive, and this is the first time I have seen these amendments, and therefore I am a little in the dark. It deals primarily with the problem of commissions heading departments. As a student of administration, I have never been an admirer of commissions, especially when they are in charge of a single substantive administrative function. It seems to me it decentralizes the structure of the administrative branch. It inhibits effective administrative control by the governor. Having said that, my question now is: do you find in these amendments any constitutional foundation or justification for the continuance of commissions as heads of departments in such a way that when the legislature or the governor under our provision come to reorganize the administrative structure they will feel inhibited by this constitutional language from eliminating a commission here and there if they found it desirable to do so?

MR. MARTIN: Mr. Chairman, Dr. Pollock, I think the answer to your question is that there is no language here or

elsewhere that prevents the legislature from changing a commission to a single administrative head or a single administrative head to a commission except where the constitution provides that an agency or an institution shall be headed by a commission or by a single head. Wherever the constitution so provides, of course, the legislature has nothing to do with it; no power to change it. But, aside from that, the legislature has the authority, I am sure, under all the language we have seen so far, to decide that an agency or a department can be headed either by a commission or by a single administrative head.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Hancock, Mr. Heideman.

MR. HEIDEMAN: Mr. Chairman, ladies and gentlemen of the delegation, I am sorry to have to rise in opposition to this first amendment with respect to the superintendent of public instruction. I thought that we had reached a happy solution with regard to this on first reading after many, many months of study in the committee on education, and then having had the matter approved here on the floor, the provision that:

> The state board of education shall consist of 8 elected members who shall hold office for 8 years. They shall be nominated by party convention and elected at large as prescribed by law. The governor shall fill board vacancies by appointment. Any such appointee shall hold office until a successor has been nominated and elected as prescribed by law.

Then, particularly to this thing at hand: superintendent of public instruction, appointment, term, duties.

> The state board shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the state board without the right to vote, and shall be responsible for the execution of its policies.
>
> The superintendent of public instruction shall be chief administrative officer of a state office of education which shall be granted sufficient funds and staff to carry on state responsibilities for education as determined by law.

Now, this we debated very thoroughly in the education committee, and then here on the floor, and came to a decision with respect to it.

I would like to quote briefly from a memorandum which I believe was sent out to at least 500 persons, leading people in the field of education throughout the state of Michigan, as of March 16. That would be last week. This memorandum has to do with the work of the educational committee and with the results obtained here on the floor. The pertinent parts, I believe, are the following:

> Next, the committee recommended that there be established an 8 member elected state board of education, which would give Michigan its first overall policymaking body on education. In the words of Chairman Bentley, "The creation of this new and enlarged board has been by far the most outstanding accomplishment of the education committee." As the committee supporting report stated:
>
> > The new state board is a symbol of partnership between the people and the state. As representative of the people, it embraces popular control, discourages use of education as a partisan tool, provides continuity of statewide policies and programs, is a barrier to special interest group influence on the schools, and helps unify educational forces throughout the state.

Then I skip a couple of paragraphs and conclude with this:

> For many years there have been serious doubts expressed as to whether the superintendent of public instruction alone should have the final voice in determining state educational policies and procedures. The education committee therefore recommended that the state board should appoint the state chief school officer to serve as its chief executive officer. His responsibility in directing the state educational system would be consistent, it would be the same as now, but he would also be serving as an administrator to a deliberative body of outstanding citizens who would be bodily representatives of the general public and would have an unselfish interest in public education.

Now, if there was anything on which there was unanimity of opinion on the part of tens and tens of witnesses who appeared before the committee on education during the early months of this convention, as well as in correspondence, as well as in contacts — now getting into personal contacts with people in the educational field and other people, lay people who are interested in education — it was with respect to the fact of the choice of the superintendent of public instruction, a practically unanimous opinion that the superintendent of public instruction should be chosen, appointed, or selected, whichever word you prefer to use, by a state board of education, preferably enlarged, and with even a longer tenure of office, and elected directly by the people, as directly as the governor, in order that they would be independent but still responsible to the people; in order to keep Michigan's educational system on the high plane which it has attained as one of the leading educational systems of the country and of the world.

I am sorry to say — but I am convinced as much of this as of anything here at this convention — that this would be a backward step, the adoption of this amendment, and therefore, as I say, I find myself impelled by conscience, by conviction, by every instinct I have from my years in the educational field that we should not adopt this amendment.

I was asked about this, and my response to it — with reference to this being brought up again — and I responded this way, "I think the proposal for which we won approval, that the superintendent of public instruction be selected or chosen by the state board of education alone, is right. I am very much opposed to the proviso requiring the approval of the governor for this appointment." I would hazard another opinion — perhaps even stronger language than "hazard" — but if we do not choose the superintendent of public instruction in the fashion that we have already decided on first reading — and I think this really shouldn't come up at this time; it shouldn't come up until second reading, morally, if not otherwise — then we should retain the method of selecting the superintendent of public instruction by the people; that he should be directly elected by the people.

CHAIRMAN MILLARD: Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman, fellow delegates, I rise in opposition to the first paragraph on the board for several reasons. First of all, my fellow members of the education committee will perhaps recall that day when we were about to — at least it seemed to me at that juncture — about to have the governor appoint the board of education and also the superintendent of public instruction, and in an effort to halt this headlong flight into what I considered something of an anomaly, I proposed the similar terminology to what is contained in the first paragraph as a fatuous argument that day before the committee on education. It was accepted as a fatuous argument, I think, by everyone concerned. But in the course of discussing the thing, and getting into the ramifications of that particular argument, the board finally realized that we ought to have something other than the governor appointing the board of education and the superintendent of public instruction, and I think the day was saved.

Now, I find the same fatuous argument appearing again, and apparently this time in earnest, and I am against it because it violates a couple of consistent principles in that it is prejudicial. It is prejudicial in 2 ways. It is prejudicial against governors because only one governor, as explained by Mr. Martin, I believe, would have the right to say yes or no, and the next governor could not say yes or no; he could simply wither away in silence if the superintendent was not acceptable to him. And it is prejudicial against boards and commissions because it imposes upon a board which is elected by the people of the state of Michigan a greater degree of duty than that board which is appointed by the governor of the state of Michigan.

Now, in toto, I think that the people who proposed this particular argument — I know from personal experience — wear the young "radical badges," and I wonder at this juncture again what is the philosophical basis of this particular argument. Now I can understand the philosophical basis on either

side of the question, but in this particular matter I am asking you — I hope rhetorically but, if not, directly — what is the philosophy behind this particular setup? I hope there is one, because it escapes me.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Ingham, Delegate Jones.

MR. JONES: Mr. Chairman, through the Chair I would like to direct 2 questions to Mr. Martin, please.

CHAIRMAN MILLARD: If Mr. Martin cares to answer.

MR. JONES: Mr. Martin, if I understood you correctly, I believe you said that under the second amendment here that the present terms of commission and board members would not be affected. Is that correct?

MR. MARTIN: That is correct, Mr. Jones.

MR. JONES: I think we have also already approved a provision in Committee Proposal 70 or 71, which would give our state government the right and the duty to reorganize our departments into 20 principal departments. Is this correct?

MR. MARTIN: That is right.

MR. JONES: Well, now, as I see it, many of the existing boards and commissions could be consolidated and new names attached to these departments. Under this type of setup, wouldn't it be possible, then, that these newly consolidated departments would then come under this provision?

MR. MARTIN: The legislature can, of course, reorganize if it so desires. It can change boards and commissions into single heads, and it can change single heads into boards and commissions, except where the constitution specifically provides that a board or a commission shall have such and such number of members, and so on. There, of course, they couldn't change it.

MR. JONES: Thank you.

CHAIRMAN MILLARD: The Chair will recognize the lady from Grand Rapids, Mrs. Judd.

MRS. JUDD: Mr. Chairman, members of the committee, I was absent this afternoon so I did not hear the earlier discussion on this, and perhaps therefore I should not speak, but I must say I am quite shocked to discover an amendment that would inject politics into the appointment of the superintendent of public instruction. It seems to me that by this change we are doing exactly what we aimed not to do when we established the education section, and I was very pleased over the education section. I thought of it as the one thing, so far, that perhaps would sell our constitution to the public.

It seems to me that we are not, in that proposal, losing any power that the governor had over the superintendent of public instruction, since he was formerly elected and the governor never had any power over him, so this would not be a loss. I can't see any sense at all in giving one governor the right to determine appointment of a superintendent of public instruction by approval, and then the next governor, because the former superintendent goes on, have nothing to say about him. It doesn't seem to me to make any sense at all.

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: Mr. Chairman, fellow delegates, I share with Mrs. Judd the concern which was just expressed, because I really don't see that this succeeds in doing what the proponents say it will do. They say this is only operative when there is a vacancy in the job of the superintendent. If that is the case, then what they are doing is, they are saddling a governor, who may be the next governor to be, with a superintendent who was picked by the previous governor, and creating a much worse situation than if the governor weren't involved in the selection process at all.

It seems to me if we want to tackle this issue headon, we should have done so, and we did so, when the committee proposal from the education committee came up on the selection of the superintendent. At that time this convention rejected, by a vote of something like 29 to 80 something, the question of having the superintendent appointed by the governor. This was Mr. Kuhn's amendment at the time.

Now, this doesn't succeed — this is neither fish nor fowl, as far as I am concerned, because it saddles someone with a superintendent who may serve beyond the duration of the governor. In this case he would have been in some way selected through some political maneuvering in the executive office. Now this idea of advice and consent of the governor, this is somewhat unprecedented. It is a radical departure from what is traditionally an advice and consent function, which is reserved largely to the senate in our present society, and here we are giving it to the governor. How would it work? We don't really have any example of how this would work, but many of us know how this would come out to be. The governor would actually submit the names to the state board of education, that these are the people that he would consent to. So that actually the reverse situation would occur, even though the amendment seems to say it isn't.

I would suggest to you that if we are concerned with making the governor a more effective and influential person in administering the educational department of our state, we ought to do so by letting him select the superintendent, but this is a back door way which doesn't really succeed in doing what it proposes to do.

Then I would just like to make one comment with regard to the second part of this amendment, and in doing so I would call to your attention that many of our decisions up to this point have been in freeing the legislature insofar as making certain determinations. In the second amendment what I see here is a freezing upon the legislature, a restriction upon the powers of the legislature to make a determination as to what the length and term of a particular board ought to be. There are instances, and I am sure that many of you here are more familiar with them than I am, where boards ought to have longer terms other than 4 years. It takes time for a person to become better equipped to take care of his job and to acquire the necessary knowledge and information that goes into being an effective board member, and his terms of office might logically be extended to 6 or 8 years under certain conditions. We have many examples of this today, where boards have longer than 4 year terms. Under this amendment you are placing a perpetual restriction upon the legislature's power to make the determination as to what boards ought to have longer terms and as to what the needs might be in the future. This is an unnecessary handicap. It is not in keeping with the general tenor of the executive article which is to free these things, and it certainly doesn't even come, at least in my opinion, within the purview of the executive article at all, since it deals with the legislature's power to create boards and commissions, and it deals with their duty to set the term for such office.

CHAIRMAN MILLARD: The gentleman from Bloomfield Hills, Mr. Woolfenden.

MR. WOOLFENDEN: I pass.

CHAIRMAN MILLARD: Mr. Bledsoe.

MR. BLEDSOE: I still live in Detroit, Mr. Chairman. I would like to ask Mr. Martin a question, please, through the Chair.

CHAIRMAN MILLARD: Mr. Martin, do you care to answer?

MR. BLEDSOE: Mr. Martin, are we to conclude that the superintendent will become an employee of the board and not so much an employee of the state of Michigan?

MR. MARTIN: Mr. Chairman, Mr. Bledsoe, if I understand your question correctly, yes, the superintendent would be an employee of the board by contract or agreement with the board, and an employee of the state of Michigan.

MR. BLEDSOE: Who would sign the contract?

MR. MARTIN: I assume that the board would have full authority to sign such a contract with the superintendent.

MR. BLEDSOE: Mr. Chairman, Mr. Martin, just what position would the governor play in the execution of that contract?

MR. MARTIN: Mr. Chairman, Mr. Bledsoe, as far as I know, and as far as any of the language indicates, the governor would not have a say with regard to the terms of that contract. The only thing with which the governor would have anything to do would be the question of whether he approved of the proposed appointee of the board.

MR. BLEDSOE: Then, Mr. Chairman, Mr. Martin, if the governor does not sign the contract, and the board has the power of appointment, the board could make the appointment, then, without the governor, couldn't it, Mr. Martin?

MR. MARTIN: The board would have the power to determine the terms of the contract, Mr. Bledsoe, and would have the power to determine the identity of the person with whom they signed the contract, subject to approval by the governor of the identity of that person.

MR. BLEDSOE: Well, of course, you don't have a contract until it has been mutually agreed upon by 2 parties, Mr. Chairman, Mr. Martin, isn't that correct?

MR. MARTIN: That is correct. They couldn't enter into the contract until they knew who they were going to enter into it with, of course. But, as I say, the question of the identity of the person with whom they were going to enter into it would be subject to the governor's approval.

MR. BLEDSOE: Mr. Chairman and Mr. Martin, just as a matter of law, and as a matter of contract and appointment, will you tell us definitely just what would be the governor's function in relation to this proposed employee selected and appointed by the board, the state board?

MR. MARTIN: Mr. Chairman, the sole function, the governor's sole function would be the question of whether he approved of the nominee or nominees prior to the time of entering into that contract, and that would only arise when there was a vacancy and a new man was to be brought in.

MR. BLEDSOE: Mr. Chairman, may I ask just one more question? Then, I take it that the appointment by the board could cover more than for a period of — within the discretion of the board?

MR. MARTIN: That is correct.

CHAIRMAN MILLARD: Judge Leibrand.

MR. LEIBRAND: Mr. Chairman, fellow delegates, after listening to the remarks of many eloquent speakers upon this subject, and with particular reference now to the remarks made by Delegates Marshall and Heideman, I have arrived at a decision, and that is a decision to vote against both branches of the amendment. Thank you.

CHAIRMAN MILLARD: The gentleman from Detroit, Delegate Stevens.

MR. STEVENS: Mr. Chairman and members of the committee, while I have not looked with great enthusiasm upon this, I will vote for it because while I see no place it does much good to the governor, neither do I see any harm in it. It seems to me that the people are going out of their way in using great imagination to try to say what is going to happen. I don't think any governor is going out of his way to refuse to accept somebody after the board has made a careful and determined choice in the matter. I think this whole debate is way outside of the possibilities and probabilities of what might happen. Thank you.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from St. Louis, Delegate Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, I wonder how well we have analyzed the provision of this first amendment. As I recall, when we considered the proposal relative to education, it was the consensus of this convention that we felt that education should be completely divorced from politics. We created a state board of education. There was an attempt to inject the influence of the front office in the selection of the superintendent by the governor being a member of that board. As so ably stated by Mrs. Judd, it was the feeling of this convention that education should not become involved in politics. The whole premise on which the governor should be a member of the board of education was to the effect that education represented a sizable amount of state expenditure; yet when we came to the University of Michigan we didn't say that the president of the University of Michigan or that Dr. Hannah as head of Michigan State University should be approved by the governor. And, ladies and gentlemen, that does represent a sizable amount of state expenditure, and yet now, after we have determined that we should elect a board by the people, board of education by the people, making them responsible to the people for their actions and the results of their administration of education, now we once again want to inject into our educational system strictly politics.

To begin with it is very impractical because the superintendent can be selected by the board for any number of years, so that after the inception of the constitution, if it is adopted, the first appointment of the superintendent can be for 20 years. There is no restriction in the education proposal as we have now passed it, and as a result for many years to come the premise that the governor would have a voice on the state board of education can be very easily defeated. So this amendment doesn't have, in my opinion, any practical effect, and I think we are injecting into our educational system something that this convention in its prior action on the educational proposal determined we did not want. I urge you to vote against the first amendment.

CHAIRMAN MILLARD: Mr. Heideman.

MR. HEIDEMAN: Just a word of addendum. There is a rule of life that unless you want to gamble do the sure thing. Now, the gamble here is this amendment. The sure thing is to vote down the amendment and/or at least retain what we have with the splendid educational system that we have in the state of Michigan. The word "approval" is the magic word. My friend, Delegate Stevens, says that we are making too much over this. I cannot agree with that. That word "approval" may be a small word, but it can also assume mountainous, mammoth proportions. Approval is the sole function and it can be the whole function. What good is it to talk about terms of contract or any of the other features if the governor can disapprove or withhold approval of the superintendent?

CHAIRMAN MILLARD: Mr. Hatch.

MR. HATCH: Mr. Chairman, there has been one aspect of the debate thus far that has distressed me somewhat, and that is the argument that has been made that this first part of the amendment up here will throw education back into politics. This argument presupposes that the committee on education and the recommendations adopted by the committee of the whole had taken the state board of education out of politics. I would like to read from section a of Committee Proposal 47, dealing with the state board of education. It says, "They shall be nominated by party convention and elected at large as prescribed by law." In other words, the nominees for this so called nonpartisan, nonpolitical board will be nominated at the Democratic party convention, at the Republican party convention, will run with the designation of their political party, and will be elected as such. So if there is politics in education, certainly this amendment will not be inflicting it therein. It is already there. All this amendment purports to do and is intended to do is give the chief executive of the state some degree of responsibility with respect to the educational field.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, in the light of hindsight, perhaps it might have been better to defer this particular paragraph for further consideration. However, I understand we are about ready to vote, and I don't intend to ask that it be put over.

Certainly no one wants to see politics in our great educational system. On the other hand, as I said this afternoon, the committee on education, at least the majority of our members, felt that the governor did deserve to have a certain degree of responsibility, a certain area of liaison in this field, which is why our proposal originally placed him as a voting member on the state board of education. The committee of the whole decided that they did not want him to so participate. I do not pretend to say that I am completely satisfied with the proposed amendment before us. On the other hand, I intend to support it, but only as a basis, as I said earlier, as I tried to make crystal clear to the committee of the whole, only as a basis for further and subsequent discussion and careful consideration of this matter.

Whether we would find it better, perhaps, at this time to go back to the original language of the committee on education or whether some other alternative might be found to be acceptable, I do not know. I do not accept this as a final word, but I shall support it in the absence of a desirable alternative. If the amendment prevails I certainly intend to do all in my personal power to try and resolve something which will carry out the original intent of the committee on education, whether it is this or some other language.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: I would like to ask Delegate Bentley a couple of questions, if he cares to answer them.

MR. BENTLEY: I would be happy to yield to my distinguished friend from Taylor township.

MR. MARSHALL: Delegate Bentley, you were chairman of the committee on education. Did you have any of the educational leaders of this state, people who were thoroughly familiar with the problems, appear before your committee with any such suggestion as we have before us now?

MR. BENTLEY: I do not recall the detailed testimony of 123 witnesses that came before the education committee, but I am frank to say, Mr. Marshall and Mr. Chairman, that in the absence of any direct memory to the contrary, I would assume your premise to be a correct one.

MR. MARSHALL: If that is correct, then, that no one of the outstanding educators and people familiar with the problems appeared before the committee advocating such a thing, and in light of what was done heretofore on your committee report, I am at a complete loss — and maybe you can explain it to me — to understand how this proposal, this amendment that is before us now, came about.

MR. BENTLEY: As far as the amendment to which we are directly addressing ourselves, Mr. Marshall and Mr. Chairman, I do not know, because I was not a party to the preparation of this particular amendment. But might I remind the gentleman, Mr. Chairman, that the final proposal from the committee on education to the effect that the governor should be a member of the state board of education was likewise not supported by any witnesses that appeared before our committee but, nevertheless, it was the considered opinion of the majority of our committee, educators and noneducators alike, that this was a desirable step.

MR. MARSHALL: I have no further questions. I would like to, while I am on the floor — might I ask Delegate Hatch a question? I think this is a real serious and important matter that we have, and I don't think that it should be passed over lightly on the basis that we will vote for it in the absence of something better. Because no one really knows that this is better, and yet we are saying we are going to vote for it, and speaker after speaker admits it, that we are going to get up and vote for it even though we don't know if it is better. And I am disturbed that we are making changes here in this constitution that we are going to have to live with for maybe 4 or 5 decades, if it is adopted, and yet we are moving along at a pace, and we are changing this and changing that, and I think we are entitled to a clear explanation as to why we are doing these things. Delegate Hatch, may I ask you: you pointed out to the delegates that the board of education — that the committee on education —

CHAIRMAN MILLARD: Mr. Hatch, do you care to answer?

MR. HATCH: Yes.

MR. MARSHALL: — that even the committee report did not take this out of politics, and I am going to ask you your own personal opinion. With the knowledge that the board of education, as you stated, is nominated at the party convention and runs statewide and elected by the people, would the fact that — it has been established heretofore, I think, that no one goes on a state ticket if the gubernatorial candidate objects to them, or the governor, as the case might be at the time — I know of no case where this has happened — so he does in effect have a voice in selecting the candidate for the educational board. Now, the question is this: let's suppose you had a Republican educational board or board of education, and they were accepted as candidates by the leader of the Republican party but you had a Democratic governor — now I put it this way so no one can jump down my throat — and your board comes out and selects a superintendent of public instruction, but the heat then is applied to the Democratic governor — and you can say: well, governors always do those things that they should do at the time they are doing them. I think in both parties, both parties, there are plenty of politics that exist, and when this comes up, do you think that if the pressure was applied from the right sources, the right places, that the governor is going to just up and bow? No. He is going to veto this candidate, regardless of whether he is a qualified and capable educator or not.

CHAIRMAN MILLARD: Was that a question or are you answering?

MR. MARSHALL: I am asking. You know what happens to me, Mr. Chairman, when I try to be real gentlemanly and kind; I get in trouble. Well, I try not to be a character.

Delegate Hatch, do you agree with my statement?

MR. HATCH: Mr. Chairman, Mr. Marshall, I think you answered the question the way you would like to see it answered. I would think that any governor who, because of political pressure or political influences, used this approval power purely for political purposes would be in a very bad position when he came up for reelection at the expiration of his term.

MR. MARSHALL: I am not saying that any governor would or any governor has. I am only saying that the potential is there, and it is great, and I think by this amendment, regardless of the party in power, that you are not taking the educational system out of politics; you are putting it more in politics, and I again urge the delegates to consider this in voting on this amendment.

CHAIRMAN MILLARD: One of the proponents has asked that the question be divided, so the question now is upon the first part of the amendment as it is upon the board.

Dr. Anspach.

MR. ANSPACH: Mr. Chairman, fellow delegates, as a member of the committee on education, I, too, favor the tie in with the governor's office, thinking that the tie in was good for the governor and good for education because of the amount of money involved, the fact that the superintendent of public instruction, because of his position, would be more or less close to the governor and have many things in common. However, I do not believe this is the way to do it. I was in hopes there would be some delay, that there might be some sort of compromise worked out that would be satisfactory, but apparently that isn't going to come about. Therefore, I have no choice but to speak against the amendment.

In my opinion, when the committee brought in these proposals, the proposal on education and the proposals that were accepted by this convention, we accomplished something which was a bit unusual in the history of the convention, for it was accepted by a minority and majority. There were a very few differences of opinion; only in one area, and that was relative to the selection of the superintendent of public instruction; whether he would be selected, be elected at large on a ticket, or appointed by the board. Therefore, we accomplished something that was not unique, particularly, but something that I think measured up to an achievement. The proposal has been accepted universally by the people of the state. Publicity has gone out, and while there have been some criticisms on certain proposals that have been accepted, some criticisms on proposals which have been rejected, I have yet to hear one person criticize the action of the committee on education and this convention in adopting the proposal from the standpoint of the state board of education. We achieved something which the educational groups of this state, the citizens, the PTAs and all who are interested in education have been trying to accomplish for a period of years: the state board will appoint the superintendent of public instruction. This convention approved that proposal. They gave the board of education the privilege, the opportunity to select the best person in the United States for this position regardless of residence. In making it necessary for him to face possible veto, you immediately take away from that board one of the big advantages given this board. It would be an advantage in the future, a great opportunity for the board to do the best for education and for the state.

Therefore, in my opinion, if we — as I said, I have no choice other than to speak against this amendment, because of the way matters have taken a turn, the turn that matters have taken in this convention — therefore, we have accepted something which is universally approved. We have accepted something which has the approval of both the minority and the majority. We have accepted something which will improve the educational system of this state. We have accepted some-

thing — regardless of what we have to say about politics, we have accepted something which will take us farther away from politics than we have ever been before. Therefore, I must speak in opposition to this amendment.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Ionia, Delegate Powell.

MR. POWELL: Mr. Chairman, ladies and gentlemen of the committee, in all of the debates that we have had here for a long time, everything that has been said has been directed toward the language of the amendment. Now, I would like to compare 2 different things to see what the alternatives are. I would like to see what it is that we would have if the amendment is voted down and the language of the committee report is retained. I am not sure that I understand that language when I read it over a few times. Beginning with the last word in line 23 on this page, if we do not adopt this amendment, the language reads:

> When a chief executive officer of a board or commission heading a principal department is appointed by such board or commission as prescribed by law, his appointment shall be subject to the approval of the governor except as otherwise provided in this constitution.

Someone has said the key word here is "approval." I don't see that. Approval is in both the language of the report and the language of the amendment. I think the key is what these last few words might be construed to mean, "except as otherwise provided in this constitution." I would like to direct a question to Chairman Martin, or anybody else who cares to answer.

CHAIRMAN MILLARD: Mr. Martin.

MR. POWELL: Suppose this report is adopted just the way it comes from the committee, thinking back toward our action with reference to the state board of education and the superintendent of public instruction, would it be possible, after the superintendent of public instruction had been appointed by the state board of education that that action could be subject to approval by the governor, or would their action there be final? I think the key, in making up my mind whether I vote for or against this amendment, is what the construction of that last phrase may be. Personally I feel rather sympathetic to this amendment, because I think it is a limiting amendment. By putting in the word "appointive," we have narrowed things down. If you don't have the word "appointive" in there, then this provision applies to all the boards and commissions, appointed and elected. The word that is proposed to be put in is "elected." So that this amendment is a restrictive amendment, it seems to me, narrowing this provision. I wonder if we could have some comment as to what Chairman Martin or anybody else feels is the implication of these words "except as otherwise provided by this constitution?"

CHAIRMAN MILLARD: Mr. Martin, do you care to answer?

MR. MARTIN: Mr. Chairman, the words "except as otherwise provided by this constitution," were specifically put in there, Mr. Powell, to exempt the board of education from the requirement that the governor should approve. The present amendment reverses that. It takes out the requirement that executive directors of boards and commissions shall be subject to gubernatorial approval. It takes that out, this language — I mean, the amendment takes that out and substitutes approval by the governor of the executive director of an elective board. In other words, this reverses it.

MR. POWELL: Mr. Chairman, I assume that was your thought, but I am not so sure those words would have accomplished that, because it would seem as though that provision in our educational article would have to be subject to this provision here, and this might carry on where the other leaves off. That is, you might have it that the superintendent of public instruction will be chosen by the board of education, but with this language in the committee report, I am not so sure but what the governor wouldn't have had the last word.

CHAIRMAN MILLARD: The question is on the first amendment, first Durst and Hatch amendment. Mr. Bonisteel.

MR. BONISTEEL: Mr. Chairman and ladies and gentlemen of the committee, I shall not be very long in what I have to say. I think almost everything relating to the proposed amendments, arguments pro and con, have been made, but throughout the entire argument, as I have listened to it, there is doubt in the minds of even some of those who have said they were going to support the amendment precisely as to what is the meaning of the proposed amendment. We are dealing with something that is very delicate, in my judgment, something that is very important to the people of the state of Michigan. We say to the people of the state of Michigan, "We are going to give you the opportunity to elect a state board of education consisting of 8 members so that you will be closer to the board which governs education at all levels from the kindergarten to higher education." And we say, "This board shall elect a state superintendent of public instruction who shall also be the agent of the board which represents you," thus bringing a direct chain of title to the people of the state of Michigan, and which, in fact, has the same high standard so far as the electorate is concerned as does the governor of the state of Michigan.

Now, if some of you are confused as to what this language means, I want to say to you that I am more than confused as to what this language means. I am not sure, let us say, what are the principal departments to be given consideration under the proposed amendment. I am not sure who is going to designate and to say which are to be the principal departments and which are not going to be the principal departments. I believe that the language in both of the amendments, as well as what Delegate Powell pointed out here a little while ago, even the language under the section under debate, in my judgment, is so ambiguous, so subjected to different interpretations, that I personally cannot support either 1 of these 2 amendments. We talk all the time about flexibility, and about giving the legislature an opportunity to do the things which the legislature should be permitted to do, and yet we, in one of these amendments, attempt to prevent the legislature from using their best judgment by even limiting, and putting into this constitution limits on the terms of the service that the board members can have under the various boards which are appointed either by the legislature themselves or by the governor of the state of Michigan.

It seems to me that we are getting away from the flexibility; it seems to me that we are attempting to take away the type and kind of freedom which one delegate has expressed or many delegates have expressed here tonight, that the finest system of public education in the United States of America is a system of education that has grown up under this freedom. I would hate to think that someone would come along some day and, because of a particular dislike of a president of the university, say that he is the principal officer of a board. Why, what would happen then to the principal officer of the board? You can make any construction you wish on this thing. I am not so far out of line when you are talking about this, because we don't know who is going to make these constructions, and I don't want to take any chances as to who is going to make the construction.

And so my position simply is this: I am for education, the best education that the state of Michigan can give the boys and girls of this state, and I want it clearly defined, defined in such a way so that no one can misunderstand it, so that there is not going to be any state of confusion in the minds of the people, nor of those who are going to administer the education in this state. I believe that the place to begin is here now, and to defeat these 2 amendments, and, in addition to that, to make certain that there is a clarification of the language as is now presented to us in the section which was discussed here a moment ago by Delegate Powell.

Mr. Chairman, I would like to see both of these amendments defeated. I certainly am not so obtuse as to not want to give consideration to any reasonable plan which might be considered, but for the purpose of the present time, the only way to dispose of them, it seems to me, is to defeat both of these amendments, and when you come back to the section as it stands there now, I suggest we scrutinize that with care; that the language that goes in there finally shall be such language that no one can misunderstand what its legal meaning is; because I am certain now, based upon what experience I have had in

my life, that I don't know what the language means, and I don't know what the language means in either 1 of these 2 amendments, and I recommend that we defeat the 2 amendments that we have before us now.

CHAIRMAN MILLARD: Mr. Boothby.

MR. BOOTHBY: Mr. Chairman, I call for the yeas and nays.

CHAIRMAN MILLARD: The question is on the first Durst-Hatch amendment. All those in favor of the amendment will vote aye.

DELEGATES: Division.

CHAIRMAN MILLARD: A division is called for. Is there support? Enough up. All those in favor will vote aye, and those opposed will vote nay. Have you all voted? If so, the machine will be locked, and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the first amendment offered by Messrs. Durst and Hatch, the yeas are 45; the nays are 67.

CHAIRMAN MILLARD: The amendment is not adopted. The question now is on the second amendment.

[The amendment is as follows:

1. Amend page 3, after line 28, by inserting a new paragraph to read as follows:

"No member of any board or commission created or enlarged after adoption of this constitution shall have a term longer than 4 years. The terms of members of existing boards and commissions, other than as provided in this constitution, which are greater than 4 years shall not be further extended.".]

Division is called for. Is there support? Sufficient number up. All those in favor of the second amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked, and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the second amendment offered by Messrs. Durst and Hatch, the yeas are 43; the nays are 72.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Messrs. Boothby and Wood offer the following amendment:

1. Amend page 3, line 19, by striking out the paragraph.

CHAIRMAN MILLARD: The Chair will recognize the proponent of the amendment, Delegate Boothby.

MR. BOOTHBY: Mr. Chairman, ladies and gentlemen of the committee, we have submitted this amendment to strike out from line 19 through the remaining parts of the section, and the reason for it is that from looking through the section which is before you, by talking with some of the delegates, it appears to us that there is quite an inconsistency between the provision of this section from line 19 on through the remaining part of this section and the provision which was adopted when the education committee's report was before us.

A few minutes ago Delegate Martin indicated that the words, "except as otherwise provided in this constitution," were inserted in this particular provision so as to take care of the board of education so that the governor would not have the power of veto in that particular area. Now, the thing that confuses me is the fact that the very first sentence of this particular portion of the section reads that "When a board or commission is at the head of a principal department, the members thereof shall be nominated and, by and with the advice and consent of the senate, appointed by the governor." It appears to me that in every case where there is a board or commission which sits at the head of a principal department, that it must be appointed by the governor. In other words, it does not recognize a situation to occur whether it can be an elected board, and this, I feel, is inconsistent with the action which we took in regard to the education section. If we say here that any time there is a board which is at the head of a commission or principal department that he has to be appointed, then this is certainly inconsistent with the action which we took which provided for the election of the board of education, which I would consider to be a principal board of a principal department.

In addition to that, Delegate Bonisteel pointed out the fact that the words "principal department" are very ambiguous; a question can be raised as to what is a principal department. Certainly that should be spelled out with more particulars. In addition to that, it seems to me that this provision actually restricts the legislature in many ways. It prevents the legislature, in the first instance, from setting up an elected board if that board is a board or a commission which heads a principal department, because under the wording of this provision, it must be an appointed board. It cannot be an elected board under the wording of this provision. In addition to that, the legislature could not do away with the advice and consent provision if it were an appointed board. It prevents them from doing away with the advice and consent. So here is a straitjacket on the legislature which prevents them from doing either 1 of 2 things: setting up an elected board which is at the head of a principal department, it would also prevent them from doing away with the advice and consent provision.

In addition, I am very much baffled by the position that has been taken on the floor by the executive branch committee. The amendment which apparently they agreed to, which was just before us, and which was voted down, took out of the provision the suggestion that the governor could veto the recommendation of a board which was appointed. Now what we have left is just the opposite, just the reverse, where the governor is to veto, be able to veto the action of a board in appointment of a chief administrator of the department. So I am wondering what the reason is for this inconsistency between the action they recommended at that time and the action which they recommended a few minutes ago in reference to the amendment.

I think that in summing this up it may be said that in reading this particular paragraph it seems as though it is so ambiguous and so confusing and so inconsistent with other action that we have taken that the best thing to do would be to remove it and vote yes in favor of the amendment to strike the paragraph, and then if at some later time other wording is put together which is more clear in nature and more definite and certain, then we can look at that and see whether we wish to adopt it or not. I urge the adoption of this amendment.

CHAIRMAN MILLARD: Do the other proponents of this amendment desire to speak? If not, the Chair will recognize Delegate Durst.

MR. DURST: Mr. Chairman, members of the committee, I am very much opposed to the amendment which we have before us. I would like, first, to point out to both Delegate Bonisteel and Delegate Boothby that we have defined principal departments, and if you look on page 2, starting at line 10, you will see the words:

> All executive and administrative offices, agencies and instrumentalities of the state government and their respective functions, powers and duties, except for the offices of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. . . .

Now, those are the 20 departments we are speaking of. It does not affect the universities in this state in any way whatsoever.

Now, what does Delegates Boothby and Wood's amendment do? It proposes to strike everything that comes after line 19. So then we will be left with this: wherever there is a single executive heading a principal department, he would be nominated by the governor with the advice and consent of the senate. Wherever there is a board, no one knows who nominates the board; no one knows whether its advice and consent of the senate. This apparently is going to be left completely to the legislature to establish, and I submit, without imposing any undue imputation to the legislature, that this is an open invitation to set up every principal department within this state, except for 2 elected officers, as a board and commission completely separated and divided from the governor's authority, and the adoption of this amendment would completely defeat everything we have done here so far to establish a strong government system in the state of Michigan.

Now, Mr. Boothby does raise the point that we do not say

anything on page 3, when a board of the state is the head of a principal department, the members thereof shall be nominated by and with the advice and consent of the senate, appointed by the governor, we have not provided for the exception of the state board of education. I would think, as a matter of construction, probably we could say since we have specifically provided for the board of education elsewhere, that this general provision would not contravene that specific provision. However, he may be right, that there should be an amendment to specifically spell that out in this section. But to take out the whole section would be to defeat most of everything we have done thus far in the executive order.

CHAIRMAN MILLARD: The Chair recognizes Delegate Martin.

MR. MARTIN: Mr. Chairman, this amendment seems to me to be particularly ill conceived. It destroys all of the provisions of the article with respect to boards or commissions as the heads of principal departments. It goes altogether beyond, I am sure, the desire of any of the people here who may have voted against the recent amendments we voted on. There was no inconsistency in the situation. The section with regard to the governor approving the chief executive officer — those amendments were deleted, and in lieu thereof we had a provision with respect to the limitation on the length of at least new boards and commissions. Now the body has voted to eliminate that limitation, and at the same time voted to eliminate the reference to the governor's approval of the superintendent of public instruction so the provision as it now stands is perfectly consistent. As I say, we took out the last sentence and changed that because we were adding the provision with regard to boards and commissions, with regard to the length of term, but it would be a serious mistake to adopt this amendment and eliminate the entire paragraph.

I certainly hope that the amendment will not be passed, and I am sure that the members of the committee, whether they were members of the minority or members of the majority, will be opposed to this amendment.

CHAIRMAN MILLARD: Mr. Faxon.

MR. FAXON: Mr. Chairman, I would like to first ask a question of Mr. Martin, and that question is: who creates a board or commission that will head a principal department?

CHAIRMAN MILLARD: Mr. Martin, do you care to answer the question?

MR. MARTIN: I am sorry, I didn't hear you.

MR. FAXON: You want me to repeat it?

MR. MARTIN: Yes.

MR. FAXON: Who would create a board or commission that would head a principal department?

MR. MARTIN: Well, aside from those boards or commissions which are established in the constitution, the legislature creates a board or commission which heads a principal department.

MR. FAXON: Thank you, Mr. Martin. I would like to then direct my comments to the amendment. It seems to me, and I am speaking now in support of Mr. Boothby's amendment, because what I think we have done in this section here is to prescribe something to the legislature which I think the legislature is perfectly capable of doing. We are saying how the commission is to be established, and who it is to be nominated by, and how it is to be approved, and I don't think that this represents a necessary addition to this particular section. The legislature would do it anyhow, and if the legislature saw fit to make any alterations with regard to the selection of a commission or board that would head a principal department, they could make that decision, too. In looking at the model state constitution, there isn't any spelling out in detail as to what the legislature shall do in carrying out this type of mandate.

It has been suggested that this would defeat everything that is done. I wish to suggest to you fellow delegates that this does not defeat everything that is done. This is a detail. It is a detail which more properly would belong in statutory language than it would in the constitution. Examination of constitutions won't reveal detailed language as to what the legislature shall do in establishing a commission or board to head a principal department.

It says, in just looking at the language here, "The term of office and removal of such members shall be as prescribed in this constitution or by law." It clearly puts back into the legislature what is to be done with it. Does the next sentence make any difference? "When a chief executive officer of a board or commission heading a principal department is appointed by such board or commission —" again "as prescribed by law, his appointment shall be subject to the approval of the governor. . . ." So again, in all the sentences it is prescribed by law. There isn't anything in this particular paragraph which the legislature couldn't do with or without it. So this really — at least this is the way I have been looking at it — doesn't defeat everything that the executive proposal does here. It doesn't defeat anything. It just attempts to clean the language up where there is confusion, and this has already been shown.

Several delegates have indicated that they are not quite certain as to the meaning, and not only as to what they might think this to mean, but they are not quite certain as to what people might, interpreting this later, think it to mean. Now, when we are writing constitutional language, we have to be certain, as certain in our own minds as we can, that we do know exactly what it means. If it is a question of spelling out statutory detail in a constitution, then we ought not to put it in if it is going to create confusion. We ought to be in fairly good agreement when it comes to something that we know what it means.

Now, this whole section has already elicited a great deal of response from everybody for about 3 or 4 hours, so it seems quite clear at this point there have been many delegates here who haven't been certain as to what it means, and I would support this amendment in the light of the fact that there has been confusion over its meaning, in the light of the fact that this is statutory language, and it is something which the legislature can do without its insertion, and in the light of the fact that this does not materially alter the full impact of the executive reorganization, and I would call your attention to other such — look at the model state constitution and other provisions in other states where this is a necessary part of a constitution.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Birmingham, Delegate Van Dusen.

MR. VAN DUSEN: Mr. Chairman, I have a question for Mr. Martin, if he would care to answer.

CHAIRMAN MILLARD: Mr. Martin, do you care to answer?

MR. VAN DUSEN: Mr. Martin, the purport of the Durst-Hatch amendment, which we just considered and which you supported, would have been, as I understand it, to eliminate the requirement of the last sentence of this paragraph, that the governor approve the executive head of a department where the department was headed by a commission appointed by the governor, and that the striking of that last sentence would accomplish the purpose which you supported with respect to the Hatch-Durst amendment in that limited respect, is that correct?

MR. MARTIN: That is correct, provided the second portion of the — I mean, the second Durst-Hatch amendment were added. In other words, if the last sentence were to be stricken, then the provision, the last sentence of the first Durst-Hatch amendment should be added, and the entire part of the second Durst-Hatch amendment should be added. I am sorry if that is confusing, but that is the way it would come out.

MR. VAN DUSEN: Well, putting my question another way, Mr. Martin: the first 2 sentences of this paragraph are in no way involved in the subject matter of either of the Hatch-Durst amendments?

MR. MARTIN: Absolutely in no way involved. That is correct.

MR. VAN DUSEN: With that understanding, Mr. Chairman, I would oppose this amendment.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: I think with this amendment we are

confronted with the situation of whether we want something or we want nothing at all. In my opinion, Mr. Chairman and fellow delegates, I would like to see the advice and consent part deleted, but realizing, of course, that the legislature could put it back in, I am fearful that by deleting this entire paragraph we would actually gut the executive administration, and I would not want to see that happen. After giving this thorough consideration, I wish to oppose the amendment.

CHAIRMAN MILLARD: The Chair recognizes Dr. Nord.

MR. NORD: Mr. Chairman, it is my pleasure to, on this occasion, support the amendment of a former student of mine, and it is my dismay to disagree with the vice chairman of the committee. I think this is a good amendment, although I believe each sentence should be considered separately. I had in mind, myself, to move to strike the last sentence, but I believe Mr. Boothby's amendment is better. Nevertheless, I think we ought to consider each sentence one at a time.

As I gather, this whole paragraph was written on the assumption, the initial assumption, that all boards and commissions would be appointed aside from the board of education. I believe that when this paragraph was drafted that was the intention of the entire proposal, as I recall; that nothing in here was to be elective, none of the executives were to be elected. I believe everything here had in mind, originally, only appointive boards and commissions, but as pointed out by Mr. Boothby, there might be elective boards and commissions which would be created by the legislature. And, in addition, we have some principal departments which are now in the paragraph before this one, such as, I believe, the secretary of state and some others, which are elective, as I understand it. In any event, I think that the original purpose of this paragraph has been somewhat altered by the recent developments, and also by the point made by Mr. Boothby that the legislature or even the governor, in creating a reorganization plan, might wish to have some elective boards. Now, if we are going to have any elective boards, it would certainly make some difference the way this paragraph would have to be worked out. Now, I would like to look at each sentence — there are 3 sentences here — look at them one at a time and see what can be adduced as to what, if anything, is wrong with any of these.

That first sentence reads this way, "When a board or commission is at the head of a principal department, the members thereof shall be nominated —" and so on. Now I think that it has been pointed out fully that this certainly assumes that any board would be appointive, and therefore some correction would have to be made at this point, no matter what, because it doesn't take into account any possibility of elective boards. In addition, it has been pointed out by a number of people that the words "principal department" are not as clear as they should be, and therefore the first sentence, at the very least, needs some changes. In addition to that, it can certainly be argued — and I believe it is correct to argue — that whatever is in the first sentence, in addition to requiring redrafting, is not necessary in any event. There is no reason why, as far as I can make out, a governor's reorganization plan or a legislative reorganization plan could not provide this provision or the reverse provision, whichever may be deemed to be better at the time. Therefore, it seems to me the first sentence is certainly ambiguous in 2 respects, and I can't see the necessity of it, in any event.

As to sentence 2, let's see what that says. "The term of office and removal of such members shall be as prescribed in this constitution or by law." It seems to me perfectly clear that that is unnecessary. That adds nothing. If something is prescribed in the constitution, then we don't need to say look in the constitution to find it. And if it is prescribed by law, similarly we don't need to say it shall be as prescribed by law. The second sentence doesn't add anything.

That brings us to the third sentence which it has been pointed out by several members in the previous debate, in addition to having ambiguities — there are 2 ambiguities in it that have been pointed out: one is the meaning of the words "principal department," and the other one is whether it applies to elective and appointive or only appointive or only elective. There are 2 ambiguities. In addition, there seems to be no need to prescribe the provisions of this particular sentence. It could be arranged by law or by a governor's reorganization plan.

In other words, to summarize the whole paragraph, there are certainly ambiguities in the first and third sentences which would have to be cured. The second sentence doesn't make any difference in or out. The entire paragraph as a whole, as far as I can see, adds nothing. Removing it would create something good. It would give more power to the governor to create a system as he pleases, or more power to the legislature to create a system as they please. Therefore, if I thought that the statements made were correct, that striking this would weaken the reorganization plan, I would immediately turn around and vote the other way; but I can't see it as yet. It seems to me that striking this paragraph would strengthen the flexibility of both the executive and the legislative branch and remove ambiguities, and certainly in the form that it now exists, I think it would be better to strike it.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: I don't wish to debate, and I hate that I find myself in disagreement with the learned Dr. Nord, my colleague from Detroit, but I can assure you that before I get through with this convention, with the help of Dr. Nord, Hale Brake, Senator Hutchinson and John Martin, I think I will have a rather liberal education.

But what disturbs me, and again I think I should point this out — and what I say, of course, is subject to rebuttal — if you eliminate the first part of this, "When a board or commission is at the head of a principal department, the members thereof shall be nominated and, by and with the advice and consent of the senate, appointed by the governor," what you are saying in effect is that you are making it possible, if you vote for the Boothby-Wood amendment, to permit the legislature to set up all types of boards and commissions, and Lord knows who would do the appointing — some Tom, Dick and Harry, or the legislature itself could do it. It does hinder and would hinder and have a direct effect upon the executive administration and reorganization.

Then in the last sentence, "When a chief executive officer of a board or commission heading a principal department is appointed by such board or commission as prescribed by law, his appointment shall be subject to the approval of the governor. . . ." Now this doesn't make too much sense, either, with one exception: in this matter the governor ought to have the outright right and responsibility to appoint. He shouldn't have the board or commission heading a principal department and have them make the appointment or recommendation subject to the approval of the governor. The governor should have the authority to appoint.

So all I can make of this is, it is obviously a compromise. I don't recall it in the committee, but I guess it was discussed. But this is necessary, all we need here is giving the governor the right to appoint. But if you delete this — and someone who has had experience in the legislature — my experience has been restricted to observing and watching and working with it — but if this is deleted, the first part of this, "When a board or commission is at the head of a principal department," et cetera, who would appoint the boards and commissions, or how would they be set up? This is the $64 question, and Lord knows — and I think this is necessary. There would be some changes in the language that I would use, but in view of what has been said, and in view of what I have said, unless someone can set me straight or offer some rebuttal, I would urge that we vote against the Boothby-Wood amendment.

CHAIRMAN MILLARD: Delegate Hoxie.

MR. HOXIE: Mr. Chairman, fellow delegates, I wonder if we can't clarify this question in relation particularly to the first sentence starting on line 19 of page 3. The difficulty seems to be in connecting up the principal department which is being referred to. If you turn back to page 2, starting with line 10, you will see that there are certain exclusions of the governor, lieutenant governor, the governing body of institutions of higher learning, and then it goes on to say ". . . shall be allocated by

law among and within not more than 20 principal departments. . . ."

I am wondering if 3 words were added on page 3, line 20, "When a board or commission is at the head of a principal department as provided herein," in other words, relating back to the 20 principal departments referred to on lines 15 and 16, if that wouldn't completely clarify the principal departments that we are referring to?

CHAIRMAN MILLARD: The question is on the Boothby-Wood amendment. Mr. Boothby.

MR. BOOTHBY: I would like to ask a question of Mr. Martin, if I may.

CHAIRMAN MILLARD: If Mr. Martin cares to answer.

MR. BOOTHBY: Mr. Martin, when you contemplated — Mr. Chairman, Mr. Martin, when you contemplated the 20 agencies, did you include in your count the board of education?

MR. MARTIN: We didn't name any of the departments, Mr. Boothby, because experience in other states had been that where an attempt was made to name particular departments it created unlimited difficulties. Obviously there has got to be a department of public instruction or education, or whatever you may call it. This is clear from the amount of money expended and the size of the operation, and so on. There is no question but what that would be one. But if we started naming individual departments, why, we would be a long time; we would be around here until next Christmas, because everybody has a particular department he would like to name. But there isn't any question but what there would be a department of public instruction or education, and that would be one of the principal departments, I am sure.

MR. BOOTHBY: I would like to direct a further question to Mr. Martin, if he cares to answer. Mr. Chairman, Mr. Martin, that being true, since we can consider the board of education to be one of the principal departments which is contemplated in here, I took from a previous comment that you made that you thought you had excluded from this provision, as far as the nomination aspect is concerned, the board of education by supplying the words, "except as provided in this constitution." Is that correct?

MR. MARTIN: That is correct, yes.

MR. BOOTHBY: I raise one further question, Mr. Chairman. When I read, as Mr. Nord has pointed out, the last sentence in this particular provision, it reads as follows:

> When a chief executive officer of a board or commission heading a principal department is appointed by such board or commission as prescribed by law, his appointment shall be subject to the approval of the governor except as otherwise provided in this constitution.

Now, my question is this: a few minutes ago it was indicated that in regard to the aspect of the board of education being a department which might be considered to be in conflict with this wording, which Mr. Martin sought to take care of by adding the last words, if that is actually true? Because when you read that last sentence it doesn't refer back, as far as I can see it, to the previous part of the paragraph, to the first part of the paragraph. It makes a simple and short statement that when a chief executive of a board or commission heading a principal department is appointed by such board or commission as prescribed by law, his appointment shall be subject to the approval of the governor except as otherwise provided in this constitution. Then I read of the provision in the constitution regarding the education section which provides for the superintendent of public instruction to be appointed by the board of education, but it makes no exception regarding whether the governor has a veto power or not. As I read this, "except as provided in this constitution," it would indicate to me that there would actually have to be an expressed provision that the governor could not veto, could not express his disapproval of the appointment by the board, otherwise this provision would apply. So my question to Mr. Martin, Mr. Chairman — if Mr. Martin cares to answer — would be whether, in his opinion, there would have to be an expressed statement in the education section that the governor would have no power to veto the appointment of the board of education?

MR. MARTIN: Mr. Boothby, I don't think so. I would have no objection, and I don't think the committee would, to making this conform to the action that the convention has already taken so far as that's concerned. If it can be done here, why, that is satisfactory to do that. We added that last phrase, although we thought the language was perfectly clear, because it related to an appointive board. So we thought it clearly excluded an elective board. But Mr. Bentley raised a question, and still was not satisfied with the language, so we added this additional phrase "except as otherwise provided in this constitution" to make it completely clear this didn't apply to the state board of education. Now the committee is certainly open to suggestions as to how that can be made more explicit than it is; but that was the intention.

MR. BOOTHBY: Mr. Chairman and ladies and gentlemen of the committee, I submit at this point that it might be wise to read the provision which was adopted several weeks ago in regard to the education section. It states as follows:

> Section b. The state board shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the state board without the right to vote, and shall be responsible for the execution of its policies.
>
> The superintendent of public instruction shall be chief administrative officer of a state office of education which shall be granted sufficient funds and staff to carry on state responsibilities for education as determined by law.

There is no exception in this provision regarding the fact that the governor cannot veto. I am submitting at this point that if we adopt the committee's recommendation at this point we will have defeated our previous intention as was expressed by the last amendment which we defeated. In other words, what we will be doing will be leaving in the provision which has been recommended by the committee, a provision whereby the governor could veto the appointment of the superintendent of public instruction by the board of education, because there is no exception in that particular report.

I think it would be very unwise at this point to take the reverse action to the one we took just a few minutes ago. If there is some ambiguity, let's take another look at this section, let's pull out this whole section, vote in favor of the amendment, and then if some other wording can come up which more complies with what we have done in the past, then let's review it when that time comes.

CHAIRMAN MILLARD: Mr. Karn.

MR. KARN: Mr. Chairman, members of the committee, what I say is going to be repetition, as much of what has been said here this evening has been. In the first place, Delegate Faxon commented at length upon the confusion that exists between the last 2 paragraphs which we have considered. I think Mr. Martin described it very clearly before Delegate Faxon talked, but what we have been referring to as paragraph 5, which starts on page 3 at line 9, covers the individual heads of principal departments. The last paragraph, starting at line 19, covers boards or commissions who are the heads of individual departments.

I think if Delegate Boothby's amendment should be approved, those departments — and most of the 120 departments involved here, many of them are under the direction of a board or commission or a number of individuals instead of a single head; those groups would be hanging alone with no provision for them. I certainly suggest that this amendment be defeated.

CHAIRMAN MILLARD: The question is on the Boothby amendment. All in favor will say aye. Opposed, no. The Chair is in doubt. A division was called for. Is there support? Sufficient number is up. The question is on the Boothby amendment. All in favor will vote aye, and those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Boothby, the yeas are 27; the nays are 98.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Mr. Lawrence offers the following amendment:

1. Amend page 3, line 20, after "thereof" by inserting a comma and "unless elected as otherwise provided in this constitution,"; so that this sentence will read:

When a board or commission is at the head of a principal department, the members thereof, unless elected as otherwise provided in this constitution, shall be nominated and, by and with the advice and consent of the senate, appointed by the governor.

CHAIRMAN MILLARD: The Chair will recognize the proponent, Mr. Lawrence.

MR. LAWRENCE: Mr. Chairman, members of the committee, it was my hope that perhaps this might correct some of the matters suggested by Mr. Boothby, and is also in line with Dr. Nord's suggestion that maybe we should take this up sentence by sentence. So what I have to say takes the first sentence only. It has nothing to do with coordinating the balance of the paragraph, although I don't think it is inconsistent. But it is done with the intention that the balance of the paragraph will also be taken up sentence by sentence.

The thought that I have in mind is this: that this provision would then mean this: that unless this constitution provides for an elected board, or unless at some future date the constitution is amended by the people, and they want an elected board, it would not be within the power of the legislature to provide for an elected board, and in that way clutter up the balance. In other words, any board that is provided for by the legislature would be an appointive board, and the balance of the sentence would then apply. He would be nominated by the governor and appointed with the advice and consent of the senate. But it does preserve in the constitution this provision: that the board of education which we have already provided for shall be elected; that this does away with the inconsistency pointed out by Mr. Boothby; it does also protect any other elective board that we may later provide for as we go through the constitution, or that the people themselves later, by amendment to the constitution, feel they should have as an elective board. Otherwise it would be by appointment.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I see no objection to this amendment.

CHAIRMAN MILLARD: The Chair understands there is a substitute. It has been withdrawn. The question is on the Lawrence amendment. All in favor will say aye. Opposed, no.

The amendment is adopted. The secretary will read.

SECRETARY CHASE: Mr. Brake offers the following amendment:

1. Amend page 3, line 23, after "by law.", by striking out the balance of the section.

CHAIRMAN MILLARD: The Chair recognizes the proponent, Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, I agree with Mr. Lawrence that maybe we will get along better if we take one thing at a time instead of several. Mr. Lawrence's amendment makes it perfectly clear that this paragraph is talking about appointed boards and commissions. This amendment deals simply with the power of the governor to approve, or the right of the governor to approve or disapprove an executive picked by a commission or board which heads a given department. The amendment is to strike that provision out so that when the board or commission appoints an executive that will be the appointment. I think this is tremendously important. I would like to give you a little Michigan history in connection with it. We constantly refer to what is being done in other states in their constitutions. Most of the lessons we need we can find here in Michigan, and we certainly can in this connection.

If the governor has the power of approval or disapproval of the executive as nominated by the board, in effect, he is making the appointment. Certainly under those circumstances, the board is going to go to the governor and ask him whom he wishes appointed. This we have tried. I want to call your attention to several specific departments in Michigan government. This is about the way we started with the conservation department. When it was organized back in 1921, the governor appointed the commission, the governor appointed the director of the commission, and both the commissioners and the director served at the governor's pleasure, not for a fixed term. The governor at that time appointed a man who was perhaps the most skillful political manipulator of his generation. He did have a background in conservation, and I think he never required the staff in his department to participate in his political activities. He did a pretty good job. But in came a new governor, and the old director went out.

I think I should just call your attention to one more thing about this particular fellow. You remember we used to have a presidential preferential primary in Michigan? You gave your choice of the nominees for president. No legal effect, but advisory. There was a man by the name of Hiram Johnson, who was a senator in California, running for president. This particular head of the conservation department got placed on that ballot the name Hiram Johnson, but it wasn't the California Hiram Johnson; it was an obscure farmer, as I remember, in Saginaw county, and the people of this state voted for Hiram Johnson, thinking they were talking about a United States senator from California, when they were talking about an unknown citizen of this state. And the net result was that the legislature, in disgust, repealed the preferential primary law, and we haven't had one since.

Well, in came a new governor. He wanted a new director. And the appointment was so clearly political; of one without a conservation background at all. The legislature said, "We've had enough of this," and they set up the present long, staggered term commission, and the net result of that move is that we have in our state a conservation department with a reputation second to none in the United States. The directors have served for long periods of time — Pete Hoffmaster, Mr. Eddy. We have had good administration. I doubt if there is anybody in this convention who would believe that we would have had a department with the reputation and the fine service that department has given if every incoming governor could have made a political appointment of the director of the department.

Let me call your attention to another one. Back in the '30s we didn't have an agricultural commission. We had an agricultural commissioner appointed by the governor, serving at his pleasure. We changed governors every 2 years, we changed commissioners of agriculture every 2 years. Some of them were fine. Some of them were terrible. One of our delegates here, Jim Thomson, was one of the good ones. Judge Dehnke early in this convention referred to a pardon which contributed very largely to the defeat of one governor for reelection. That pardon was of the son of the commissioner of agriculture. The farmers got tired of that change every 2 years with everybody appointed as commissioner expected to pay off politically; and they got through our present statute setting up a commission with long, staggered terms. The commission picks the director, and not with the approval or anything else from the governor. Another of our delegates had a lot to do with getting that statute through, and I am sure he and his organization have been satisfied with the results that we have had. The first director under the new setup had been in as commissioner, and that was another of our delegates, Charlie Figy, and since that change was made, we have had only 2 directors, Charlie Figy and George McIntyre, who is still on the job and doing a good job.

Another department, the welfare department, a big spender. Back in the '30s again we had the same situation with the director of welfare picked by the governor, serving at his pleasure, and again some of them were excellent and some of them were terrible. There came a time when an incoming governor had 2 people who needed good jobs, so the department was divided and we had 2 heads of the welfare department. It was one of the directors of welfare in those days who made off with a very sizable quantity of the state's postage stamps. When I came in the treasurer's office, 2 or 3 months after I had been there one of the girls came in one day and said, "Do you know we've got a great big drawer full of postage stamps in the vault?" I said I didn't. She didn't know where they came from, but we ran it down. They were the stamps this director of welfare had embezzled. The attorney general got them back, stored them in the treasury vault, and every-

body forgot them, and they were still there. So we got tired of that, too. The legislature set up the present welfare commission with long, staggered terms, and the commission picks the director, and we haven't had many directors since that was done.

We have often had reference made to the fact that Michigan government was illogical, grew by chance, like Topsy. A lot of people have said it grew like Topsy. Believe me, that one didn't grow like Topsy. It was deliberately framed to get it out from under the immediate political control of the governor, and I had something to do with that legislation. It has worked. I happen to know that in one instance since then the governor of the state tried to get that commission to make the welfare appointments in the county political patronage, and the commission had the guts to say no, and they made it stick. That was what was intended.

I think this amendment ought to go through. When the governor has appointed the commission, that is his oversight, his control. He ought not also to have the veto power over the appointment of the director.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, the hour is getting late; it is 10:20. I wanted to speak on this subject, and I know there are others on the list. I know that it's of major importance that a lot of the delegates do not have their minds made up at this point. I have been discussing it with several myself, and due to the lateness of the hour and the fact that there are several other speakers, I would like to at this time move that the committee rise.

CHAIRMAN MILLARD: There is only one other speaker. The motion is on the question shall the committee now rise. All in favor say aye. Opposed, no.

The motion does not prevail.

DELEGATES: Division.

CHAIRMAN MILLARD: Is there support for division? All right. There is sufficient. On the question of the motion that the committee do now rise, all those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the motion that the committee rise, the yeas are 39; the nays are 77.

CHAIRMAN MILLARD: The motion does not prevail. Mr. Marshall, do you wish to talk?

MR. MARSHALL: Mr. Chairman, fellow delegates, some of the delegates who now are advocating that we strike this were arguing in the reverse when we were talking about elective officials. I see no point in having the governor approve the appointments after he has already appointed the commission in the beginning. We were talking here about the "chief executive officer of a board or commission heading a principal department" as "appointed by such board or commission as prescribed by law, his appointment shall be subject to the approval of the governor except as otherwise provided in this constitution."

Of course, we could go on and question whether or not all of these various commissions of various numbers are necessary. We could have a commissioner who would be the head of the department, the same as the labor department. You have a labor commissioner, but you have no commission, and the labor commissioner is appointed by the governor with the advice and consent of the senate, and there are some amendments that can be offered, and that was my reason previously for moving to rise so that we could have more time to think about the Brake amendment. Because, very frankly, I have some mixed feelings about this, myself; as to whether or not the Brake amendment is the right thing or whether or not I should submit an amendment to eliminate all the commissions and just have a commission and department heads, and have the governor make the appointments.

So, I would again — I shall not make the motion, but I would again urge the delegates and our committee chairman in particular that maybe the hour is — 10:30 is the time that the committee rises, and if we — otherwise, I will just have to go ahead and offer my amendment.

CHAIRMAN MILLARD: Dr. Pollock.

MR. POLLOCK: Mr. Chairman and members of the committee, I consider the Brake amendment to be a vitiating amendment. It is not a perfecting amendment as was the one offered by Mr. Lawrence. It doesn't help the committee proposal, it weakens it very considerably. It depends, of course, on whether you accept the philosophy of the committee's whole proposal. Basically we are concerned with strengthening the position of the governor, and on this point the entire committee was in agreement. We began by giving the governor a 4 year term, which makes it quite different than the situation Mr. Brake talked about when governors had 2 year terms. We decided also that the structure of government should be reorganized, and that the governor should have a part in it, and a continuing part, on a basis that would really be effective in keeping the structure in order.

We recognize that in the experience of Michigan administration certain commissions traditionally and over the years have worked successfully as heads of departments. We had no desire as members of the committee in the constitutional convention to disturb what already appeared to work satisfactorily. However, either you have departments influenced more by the governor or you have them more influenced by the legislature, and the reason, of course, why anybody with legislative orientation favors the commission rather than a single head is because there are so many more opportunities for influencing the department through a many headed commission than is the case when there is a single department head appointed by the governor. In our desire, however, not to disturb situations where there are commissions that have been effective and have handled their jobs well, we did, however, feel that it was absolutely necessary to tie the executive branch together to at least give the governor the power of approval in those cases, which I hope won't be very numerous, where there is a commission at the head of a department rather than a single head.

Those are the principal reasons I think, Mr. Chairman, why the committee decided this way, and I didn't — I can't recall that there was any disagreement among any of the members of the committee. In other words, we were proceeding from an altogether different point of view than Mr. Brake. It wasn't merely a question of where we had been, we wanted to know where we were going.

CHAIRMAN MILLARD: The question is on the Brake amendment. Mr. Martin.

MR. MARTIN: Mr. Chairman, for myself, I can't accept this amendment standing alone. If I understood that Mr. Brake were willing to accept either an amendment to his amendment which would add the substance of the second Durst-Hatch amendment regarding the limitation of terms of new boards and commissions, or if he were willing to go along with the idea of reconsidering the vote on that amendment, I would feel differently. But if that is not so, then I can't accept this amendment just standing by itself, because it does weaken the article.

CHAIRMAN MILLARD: The Chair will recognize Delegate Young.

MR. YOUNG: Mr. Chairman, I also rise in opposition to the amendment. Dr. Pollock has described it as a vitiating amendment. More properly in the political vernacular it could be described as a ripper amendment, because I think it goes a long way toward defeating the obvious purpose of strengthening the executive.

Now, as I understand it, the purpose of this whole proposal is to reorganize the executive under 20 departments in order to provide for a more responsible executive administration and control. Now, if we are to assume that many of the abuses that Mr. Brake referred to did in fact exist, then I think the legislature has gone a long way toward correcting these abuses by providing for the staggered terms.

Now this raises a possibility that a newly elected governor might come into office with a commission in existence with staggered terms that might consist in its majority of an opposite party. Now this would be bad enough, and would certainly divide the legislative responsibility, but if that governor has

no power to determine who shall be the acting executive head of the agency, then his power is indeed, as Dr. Pollock pointed out, vitiated. So if we are interested in reorganizing and strengthening and making more effective the executive department, I submit that this amendment should be defeated.

CHAIRMAN MILLARD: Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen, what Mr. Young has been talking about is the exact purpose of long, staggered terms. That is the reason we have them. But I will go along with the chairman of the committee. If he wants to submit this whole thing in one package again with the limitations at the end of the amendment that we had a little while ago, I will accept it.

CHAIRMAN MILLARD: The question is on the Brake amendment.

SECRETARY CHASE: Mr. Brake, at the suggestion of Mr. Martin, therefore revises his amendment to read as follows:

1. Amend page 3, line 23, after "by law.", by striking out the balance of the section and inserting a new paragraph to read as follows:

"No member of any board or commission created or enlarged after adoption of this constitution shall have a term longer than 4 years. The terms of members of existing boards and commissions, other than as provided in this constitution, which are greater than 4 years shall not be further extended.".

MR. WOOLFENDEN: Point of order, Mr. Chairman.

CHAIRMAN MILLARD: State your point.

MR. WOOLFENDEN: I think the committee has already acted on that exact language, and I think it is out of order.

CHAIRMAN MILLARD: Your point is well taken. That was rejected by a vote of 43 to 72. That very wording was rejected.

MR. BRAKE: There is something else with it now. It isn't the same proposition. It is a combination of language.

MR. WOOLFENDEN: Mr. Chairman, the previous amendment was divided, and this question, exactly verbatim, was voted on by the committee, so that there is nothing new. It is exactly the same as the divided half of the previous amendment.

CHAIRMAN MILLARD: You are right. Mr. Martin.

MR. MARTIN: Mr. Chairman, is that your ruling on this, that this is not a proper addition to Mr. Brake's amendment when added to it?

CHAIRMAN MILLARD: He has added nothing to it. It is the same wording, identical with an amendment that was voted down by this committee.

MR. MARTIN: I appreciate that, but I thought Mr. Brake's point was that this combined presented a different amendment; combined with his wording presented a different amendment, or combined with his deletion.

CHAIRMAN MILLARD: The Chair still rules that this is the amendment that was voted down. It can be cured by having a motion to reconsider.

MR. MARTIN: Mr. Chairman, can I make that motion at this time, or do we need to wait until we have voted on Mr. Brake's amendment?

CHAIRMAN MILLARD: Well, if Mr. Brake has no objection to voting on the reconsideration of this.

MR. BRAKE: Mr. Chairman, Mr. Martin, I don't like to go back and forth here between us, but may we vote on my amendment and then take up your motion to reconsider?

MR. MARTIN: I have no objection, if I have your support on that.

MR. LEIBRAND: Mr. Chairman, may I inquire what we are voting on; whether or not it is the original Brake amendment or some possible substitute?

CHAIRMAN MILLARD: The question is on the amendment of Mr. Brake which reads as follows:

1. Amend page 3, line 23, after "by law.", by striking out the balance of the section.

Division is called for. Is there support? Sufficient number up. All those in favor will vote aye. All those opposed will vote nay. The Brake amendment is up on the wall, the one we are voting on. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Brake, the yeas are 57; the nays are 64.

CHAIRMAN MILLARD: The amendment is not adopted. The secretary will read. Mr. Martin, do you want to move to reconsider now?

MR. MARTIN: No, I don't want to move to reconsider, Mr. Chairman.

CHAIRMAN MILLARD: The secretary will read.

MR. MARTIN: What do we have now before us? Do we have other amendments?

SECRETARY CHASE: Mr. Wanger has offered an amendment.

MR. MARTIN: Well, Mr. Chairman, the hour is pretty late. I move the committee do now rise.

CHAIRMAN MILLARD: The question is on the motion of Mr. Martin that the committee do now rise. Those in favor will say aye. Those opposed, no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole had under consideration some matters of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 71,** a proposal to provide for the election, term and duties of state officers; has considered several amendments to this proposal, has come to no final resolution thereon. This completes the report of the committee of the whole, Mr. President.

PRESIDENT NISBET: Will the convention please be in order. The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, since the announcement I made at the outset of this evening's session to the effect that we were contemplating a session on Wednesday night, it has come to my attention that a great number of delegates had made a commitment for Wednesday night for which they had bought tickets, relying on the fact that we were probably going to have evening sessions on Tuesdays and Thursdays. Consequently, it appears desirable to shift the session for Wednesday night of this week to Thursday night of this week instead, a Thursday night session of this week instead of a Wednesday night session.

PRESIDENT NISBET: Announcements.

SECRETARY CHASE: Mr. Millard announces a meeting of the committee on emerging problems tomorrow, Tuesday, in committee room I on the third floor, at 11:30 a.m. or immediately after the morning session. Bring your lunch. Frank G. Millard, chairman.

We have the following requests for leave from the session: Messrs. Bentley, L. W. Richards and Nisbet ask for leave of absence from tomorrow's session; Mr. Bentley from tomorrow morning's session only. Mr. Farnsworth requests leave from tomorrow's session, and Mr. Anspach from the session of tomorrow. He has been requested to be a pallbearer at a funeral, and also wishes to be excused from the sessions of Wednesday and Thursday, April 4 and 5, to fulfill speaking engagements at Purdue University which are a long time commitment.

PRESIDENT NISBET: Without objection, they are excused.

The Chair recognizes Mr. Stafseth.

MR. STAFSETH: Mr. President, I move that the convention adjourn.

PRESIDENT NISBET: The question is on adjournment. Those in favor say aye. Opposed, no.

The convention is adjourned until tomorrow morning at 9:30.

[Whereupon, at 10:45 o'clock p.m., the convention adjourned until 9:30 o'clock a.m., Tuesday, March 27.]

shall be equally divided as near as can be between proponents and opponents of the amendment.

2. Debate on all amendments in committee of the whole (except minority reports) shall be limited to 20 minutes, which time shall be equally divided as near as can be between the proponents and the opponents of the amendment.

3. Except for speeches made on apportionment, no speech shall exceed 10 minutes.

4. Any report of the committee on style and drafting which is unchanged by the convention on second reading and adopted unanimously by the convention (or as an alternative, with no more than 20 dissenting votes) shall be considered finally passed and shall not be reconsidered on third reading; and be it further

Resolved, That in the interest of obtaining bipartisan support for these or any other recommendations which will speed the procedure of this convention, this resolution in addition to being referred to the committee on rules and resolutions be referred to the president and 3 vice presidents of this convention or, in the alternative, that the committee on rules and resolutions meet jointly with the president and 3 vice presidents for the consideration of this resolution.

VICE PRESIDENT HUTCHINSON: The Chair recognizes the gentleman from Kalamazoo, Mr. Allen.

MR. ALLEN: Mr. President, ladies and gentlemen, I don't care to have the resolution read, but I would like to make a few comments about it. I computed that starting with yesterday there are only 35 session days remaining before our fiscal deadline of May 15, and yet to be completed in the committee of the whole on general orders is the executive branch. I roughly computed it might take 3 days, and that included yesterday, so there are only 2 more days for executive branch; for apportionment, I put down 3 days though it may not be enough; there are 24 sections, approximately, unfinished on legislative powers; 13 sections, approximately, on miscellaneous provisions and schedule; we have an important section on property rights, concerning civil rights; we have elections; and we have the sections on finance which are coming back. Allowing as little time as possible, but still trying to be realistic, it would take about 18 days, moving as fast as we can, in order to finish our general orders, or first reading, as some of us call it, and that will be April 17. That will leave only 18 days before our fiscal deadline and it means we have just 18 session days in which to go through all of second reading on the approximately 235 sections of the constitution, and the third reading.

Now, I don't think that 17 or 18 session days are going to be sufficient to go through second or third reading, and therefore, realistically, what this convention faces is the following: either we are going to work without pay beyond our May 15 deadline, or possibly we could take a voluntary reduction of 50 per cent in our pay for the last month so as to go on an approximate additional 30 days, or we can make some changes in our rules of procedure which will accelerate the progress of this convention. There has been quite a bit of discussion in the rules committee about this, and it appears that if there is any fault at all in this convention procedure or delay, it occurs when we redebate everything that we previously have debated in the committee of the whole when we report to the convention; and then offer the same amendments that were offered and defeated in committee of the whole. It also occurs because of the great number of impromptu amendments offered from the floor.

In this resolution there are some suggestions as to methods of changing the rules. I am not particular which ones are accepted—or, in fact, if any are accepted—but I am interested in seeing that something is done in order to hasten our work merely as a matter of necessity. For example, we might change the rules to provide that when the committee of the whole reports to the convention the action of the committee of the whole be accepted and that votes in committee of the whole shall be made record roll call votes. That would shorten things up quite a bit. It may seem too drastic. Or we could do something a little less drastic than that; we could still report out of the committee of the whole to the full convention, and have our question as to whether or not to accept the report of the committee of the whole, but not allow debate and not allow any more amendments to be proposed, and not allow amendments which have been defeated in committee of the whole to be offered again. Another thing that we could do is to limit debate on the amendments which are offered from the floor. The resolution suggests a limitation of 20 minutes on each amendment offered from the floor in committee of the whole, which time will be divided as nearly as can be between the proponents and the opponents of the amendment. We could also provide that except for speeches on the apportionment issue, which I think will have to be longer, that no speech given here exceed, let us say, 10 minutes. We might be able to shorten our third reading by providing that any proposal which is approved unanimously on second reading by this convention not be considered separately on third reading.

Now, Mr. President, in order to obtain bipartisan support for some method to expedite and hasten the work of the convention, I would suggest that this resolution which will automatically go to the committee on rules, also, in the discretion of the president, be referred to the convention officers, the president and the 3 vice presidents, so that they may give this matter consideration also because I feel that whatever we do is going to need the support of the convention officers. Thank you very much.

VICE PRESIDENT HUTCHINSON: The resolution is referred to the committee on rules and resolutions.

In the opinion of the Chair, having referred the resolution to the rules committee in accordance with our rules, the resolution is vested there, and it cannot be at the same time referred to the group of officers. It is the opinion of the Chair that to the extent that the opinion of the officers is requested by the committee on rules, that advice to the committee on rules will be given.

Any further motions or resolutions?

SECRETARY CHASE: That is the only resolution on file, Mr. President.

VICE PRESIDENT HUTCHINSON: Unfinished business.

SECRETARY CHASE: None.

VICE PRESIDENT HUTCHINSON: Special orders of the day.

SECRETARY CHASE: None.

VICE PRESIDENT HUTCHINSON: **General orders of the day.** The gentleman from Genesee, Mr. Millard.

MR. MILLARD: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of taking up matters on the general orders calendar.

VICE PRESIDENT HUTCHINSON: The question is upon the motion of the gentleman from Genesee. All those in favor will say aye. Opposed, no.

The motion prevails. The committee will convene, and Mr. Millard will preside.

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the **committee of the whole.]**

CHAIRMAN MILLARD: The committee will be in order, and the secretary will read.

SECRETARY CHASE: The committee of the whole has under consideration **Committee Proposal 71,** to provide for the election, term and duties of state officers, allocation of departments, et cetera.

For last previous action by the committee of the whole on Committee Proposal 71, see above, page 1875.

Immediately pending is paragraph 6 of section b, beginning on page 3, lines 19 through 28. An amendment offered by Mr. Lawrence on yesterday was adopted. Mr. Wanger offers an amendment to that language that has been adopted.

Mr. Lawrence's amendment which has been adopted was to line 20, after "thereof" by inserting a comma and the words "unless elected as otherwise provided in this constitution."

Mr. Wanger offers the following amendment:

1. Amend page 3, line 20, after "elected" by inserting "or appointed"; so that the language will then read:

When a board or commission is at the head of a principal department, the members thereof, unless elected or appointed as otherwise provided in this constitution, shall be nominated and, by and with the advice and consent of the senate, appointed by the governor.

MR. LAWRENCE: Mr. Chairman, may I say something?

CHAIRMAN MILLARD: Mr. Lawrence.

MR. LAWRENCE: I am in full accord with that amendment. It seems to me it covers the matter much better than with the word "elected" alone.

CHAIRMAN MILLARD: The Chair recognizes the proponent of this amendment, Mr. Wanger.

MR. WANGER: Mr. Chairman, I urge the adoption of this amendment, which I think we will all be in agreement with, because without this amendment I believe that the present language in these lines of the proposal would mean that the governor's appointments to the civil service commission would require the advice and consent of the senate. That, of course, was not the intention of the committee or Mr. Lawrence, and by adding these words that matter can be clarified.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, we have no objection to this amendment. It is entirely within the sense of the original proposal.

CHAIRMAN MILLARD: The question is on the Wanger amendment. All in favor will say aye. Opposed, no.

The amendment is adopted. Any further amendments?

SECRETARY CHASE: There are no further pending amendments to this paragraph, Mr. Chairman.

CHAIRMAN MILLARD: If not, it will be agreed to.

Paragraph 6 of section b is agreed to, as amended. That is the last paragraph in section b. Are there any amendments to the body of the section?

SECRETARY CHASE: Messrs. Gover, Faxon and Dell offer the following amendment:

1. Amend page 2, line 17, after "major purposes" by changing the period to a comma and inserting "but at no time shall an examining or licensing board be composed of or governed by a majority of members of a competitive profession.".

CHAIRMAN MILLARD: The Chair recognizes the first proponent, Delegate Gover.

MR. GOVER: Mr. Chairman, fellow delegates, this amendment is to straighten out what I believe is a deficiency in this section as written, something that will take the problems out of the control of the departments by others than those who are in the professions being controlled. I believe this amendment has merit and assures all concerned that a majority from one profession will not control any licensing or examining board of another profession.

It has been maintained on the floor here that Missouri has a fine constitution. I want again to call attention to the fact that in Missouri there was a period of 25 years when it was impossible for anyone of any of the healing arts to get a license. It seems that the healing arts are separate and distinct sciences and cannot satisfactorily be governed by a competitive school of healing. Therefore I support this amendment and believe we should do something in that case to take care of this deficiency. I would like to yield to Delegate Faxon at this time.

CHAIRMAN MILLARD: The Chair recognizes Delegate Faxon.

MR. FAXON: Mr. Chairman, fellow delegates, this very simply attempts to put some restriction on the organization of the 20 departments so that members of competing professions won't sit in judgment on the credentials of other people. Of course the case of Missouri was one that was cited. There has been a tendency in other areas to try to group together professions under one board. This may seem logical and reasonable to those of you who may be lawyers here, but when we approach the area of the healing arts there is considerable controversy, and this is not to diminish its importance; but there is some controversy as to whether they should be under a single board or not.

Under the present state government, these are under separate boards, and this has served the various practitioners in this state well. Now this amendment doesn't really alter that; it just simply lets that go on. This doesn't change anything. It just places a certain restriction with regard to how the departments organize so that that particular board continues to function. It doesn't exclude people from competing professions sitting on the board. It simply prevents them from being the majority of the board. There isn't a problem, for example, in the case of chiropractic examiners, as to whether a member of the medical profession could sit on the board; it would simply mean that a majority of the members could not be of a competing profession. This would, I think, safeguard and protect the rights of those people who are already practicing in this state and would act as some guide in terms of the organization of the departments.

CHAIRMAN MILLARD: Mr. Gover.

MR. GOVER: I would like to yield to Mr. Sterrett at this time. He has something to say.

CHAIRMAN MILLARD: The Chair recognizes Delegate Sterrett.

MR. STERRETT: Mr. Chairman, members of the committee, I had mentioned before, when we were passing over this or going through this section about the reorganization of the 20 departments, that in the committee on executive branch I had requested the committee to accept a type of wording similar to this to be written into the constitution. However, through the unaimous decision to withdraw this type of wording, it was so done and we put a similar statement in the supporting reasons accompanying the committee proposal. However, as long as delegates of the committee of the whole have submitted this amendment for consideration, I would like to support this type of amendment because I believe there is a need for the recognition, as such, outlined in this amendment for the various licensing boards to create an equality for all. I support it for the various reasons that Mr. Gover has already given, and I hope the amendment is approved.

CHAIRMAN MILLARD: Mr. Gover.

MR. GOVER: Mr. Dell also has something he wants to say.

CHAIRMAN MILLARD: The Chair recognizes the delegate from St. Ignace, Mr. Dell.

MR. DELL: Mr. Chairman and members of the committee, I think this touches upon the question discussed the other day in setting up these departments or consolidating these departments, and I think this amendment speaks for itself. I am sure, however, in the future, consideration will be given when these boards are set up, and that is why I was a part of the sponsorship in this particular amendment; and I hope that you will adopt it.

CHAIRMAN MILLARD: Mr. Gover.

MR. GOVER: Mr. Martin has something on that.

CHAIRMAN MILLARD: Are you yielding the floor, or is he talking on your amendment?

MR. GOVER: Well, he told me to go ahead by highsign. The main thing I want to say is that we are not going to take a lot of time on this, but we would like to see the committee give favorable action on it.

CHAIRMAN MILLARD: The Chair recognizes the delegate from Detroit, Mr. Yeager.

MR. YEAGER: Mr. Chairman, I would like to put a question to Mr. Gover.

CHAIRMAN MILLARD: If Mr. Gover cares to answer.

MR. YEAGER: I realize that the amendment as is now proposed is reasonably clear, but there is one thing I want to make certain is in the record. Proponents of efficient government feel, many of them feel, that we should in Michigan have a department of business and professional licensing. Is there any way or any manner by which this amendment might interfere or preclude having the various boards function under this one type of efficient licensing department, in your opinion, Mr. Gover?

MR. GOVER: Mr. Chairman and Mr. Yeager, I don't believe there is anything in there that would interfere with the efficiency of the board. Each one of these licensing boards maintains its own personnel anyway. Many of them serve without compensation, and I think they could all work under one head. That is the way it is figured under these 20 departments.

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, the committee, I think, would feel that the general purpose of this amendment is in line with our own thinking, but the amendment itself is clearly a legislative matter. The question of how such a department of licensing should be set up is something that the legislature is entirely competent to decide, and we have carefully avoided trying to dictate to the legislature how this should be done, and for that reason, and particularly in view of the fact that the legislature has carefully avoided putting members of competitive professions on examining boards, it seems to me we can trust the legislature in this matter as we have in others. For that reason it seems to me that this amendment is not a necessary amendment and that it adds to the legislative provisions which we would otherwise be putting into the constitution. I think that we should leave the proposal as it is and rely upon the legislature in this matter, as in many other matters which it will have to consider, to take account of the public benefit, and to do what is desirable and to do certainly what Mr. Gover has in mind. I have no objection to what he desires to have the legislature do, but that is where it ought to be left. For that reason I think—I am sure the committee would oppose the amendment.

CHAIRMAN MILLARD: Mr. Gover.

MR. GOVER: Mr. Chairman and Mr. Martin, I would agree with you, probably, that this is a legislative factor in the constitution, but when you start bringing 141 or 145 or 146 departments down to 20, you are necessarily going to have some conflict in there, and some are going to want to wield more control over others than should be, and I, for that reason, am strongly in favor of separating this; at least giving the departments under the head a chance to have their own boards.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Mr. Iverson.

MR. IVERSON: Mr. Chairman, members of the committee, I desire to say a few words on this. I didn't propose to nor do I like to be put in the position of opposing a committee recommendation. However, I find myself in this position. Having had considerable experience with matters involving the healing arts, and with that experience, and the continual attempt on the part of one to continually grind the others down, I am inclined to go along with a little extra language in the constitution to protect the so called 3, at least 3, healing arts, main healing arts, which are recognized by licensing under acts of the legislature.

As I say, I have seen the operation of these groups, and I think the people, generally, of the state of Michigan should have their right to choose their own method of healing. They are licensed in the state of Michigan, and I am sorry that I have to oppose any recommendation of the committee on this, but I must support this amendment.

CHAIRMAN MILLARD: The question is on the Gover amendment. All in favor will say aye. Opposed, no.

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support? There is a sufficient number. The question is on the Gover amendment. All those in favor will vote aye. All those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Gover, Faxon and Dell, the yeas are 60; the nays are 49.

CHAIRMAN MILLARD: The amendment is adopted. Are there any further amendments to the body of section b? If not, it will pass.

Section b is passed, as amended. The secretary will read section c.

SECRETARY CHASE: Section c,

[Section c was read by the secretary. For text, see above, page 1766.]

CHAIRMAN MILLARD: The Chair recognizes the chairman of the committee, Mr. Martin.

MR. MARTIN: Mr. Chairman, the provisions of this section are essentially the same as other provisions of the constitution with regard to the maintenance of the offices at the seat of government, the superintending of those offices and the performance of duties pertaining to those offices. The committee has added the provision — there is no essential difference. There is no amendment offered at the present time. This is the substance of the proposal. It does not fundamentally change any of the provisions of the present constitution. I think that we have nothing further to present on this.

CHAIRMAN MILLARD: Are there any amendments to section c?

SECRETARY CHASE: None on file, Mr. Chairman.

CHAIRMAN MILLARD: If not, section c will pass. It is—

SECRETARY CHASE: I am sorry. The secretary overlooked part of this section. On page 4, at the top of the page, there appears the language, "principal departments headed by boards or commissions. . . ." This is a duplication. I am sorry. This has been read.

MR. MARTIN: Mr. Chairman, I believe that the minority has a — no, I think the minority report is essentially the same as our provision. So I guess there is no further —

CHAIRMAN MILLARD: Are there any amendments? Mr. Marshall.

MR. MARSHALL: I believe the minority report removes the requirement of consent and advice from section c. Am I on the wrong one?

MR. MARTIN: No.

MR. MARSHALL: My legal advisers advise me I am on the wrong section.

CHAIRMAN MILLARD: Are there any amendments or minority reports to section c? If not, it will pass.

Section c is passed. The secretary will read section d.

SECRETARY CHASE: Section d,

[Section d, first paragraph, was read by the secretary. For text, see above, page 1766.]

CHAIRMAN MILLARD: The Chair will recognize the chairman of the committee. You want to take it up by paragraph?

MR. MARTIN: We can on this one, yes. I think we should take it up by paragraph.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: This first paragraph simply includes the language of the present constitution with regard to taking care that the laws be faithfully executed, transacting business with the officers of the government by the governor, and requiring information in writing from executive and administrative state officers on subjects related to their own duties. We have added the one sentence at the beginning of the section, which appears in all of the new constitutions, to the effect that each principal department shall be under the supervision of the governor. This is simply a general statement, covering the fact that under this reorganization there will be 20 principal departments and that the executive has a responsibility for seeing that these departments perform their duties as provided by law, and the provision blends with the other provisions of the present constitution regarding the execution of those laws.

CHAIRMAN MILLARD: Mr. Martin, do you yield to anybody on your committee, or do you yield the floor?

MR. MARTIN: I yield the floor.

CHAIRMAN MILLARD: There is a minority report. The secretary will read.

SECRETARY CHASE: Pursuant to minority report C of Messrs. Marshall, Greene, Kelsey, Perlich, Wilkowski, Miss Hart and Mrs. Daisy Elliott,

[Whereupon, Mr. Millard assumed the Chair to preside as chairman of the committee of the whole.]

CHAIRMAN MILLARD: The committee will be in order. The secretary will read.

SECRETARY CHASE: **Committee Proposal** 71, a proposal to provide for the election, term and duties of state officers, et cetera.

For last previous action by the committee of the whole on Committee Proposal 71, see above, page 1988.

When the committee rose last night there was under consideration an amendment to the body of the proposal by Mr. Wanger:

[The amendment was again read by the secretary. For text, see above, page 2005.]

CHAIRMAN MILLARD: The Chair recognizes Mr. Wanger.

MR. WANGER: Mr. Chairman, with the understanding that the language to which this applies is to be deleted subsequent to this time, I withdraw my amendment.

CHAIRMAN MILLARD: The amendment is withdrawn. Are there any further amendments to the body of Committee Proposal 71?

SECRETARY CHASE: None, Mr. Chairman.

CHAIRMAN MILLARD: If not, it will pass.

Committee Proposal 71, as amended, is passed. Thank heaven. (laughter)

SECRETARY CHASE: **Exclusion Report 2027,** A report recommending the exclusion of article VI, sections 14 and 15; to which a motion to reconsider is pending.

For last previous action by the committee of the whole on Exclusion Report 2027, see above, page 1976]

Yesterday, before the committee of the whole rose, Mr. Wanger moved to reconsider the action of the committee of the whole in passing Exclusion Report 2027 without amendment.

CHAIRMAN MILLARD: The Chair will recognize Mr. Wanger.

MR. WANGER: Mr. Chairman, this exclusion report was adopted by the committee according to its report in the journal because it believed that sections 14 and 15 of article VI had been better covered by Committee Proposal 48. Now, as you know, the convention voted not to pass Committee Proposal 48. And because of the haste of yesterday's activities, it is my very strong conviction that we would do well to give careful consideration to retaining section 14 of article VI of the constitution. This reads as follows:

> Sec. 14. No member of congress nor any person holding office under the United States or this state shall execute the office of governor, except as provided in this constitution.

Now, the most important words of that section are the words "holding office under . . . this state" because this section prevents the governor of the state of Michigan from concurrently holding, say, the office of governor and also being the mayor of a city.

The annotations show that back just before the turn of the century Governor Pingree was elected to the governorship while he was mayor of Detroit. He desired, as far as we can tell from the case, to hold both offices and perform both offices at the same time. The court held in this case, which is in volume 112 of the Michigan Reports, at page 145, that this section prevented him from doing that. I think it is clear that today, in this modern and much more busy governmental age, we should not allow dual officeholding in this regard by the governor of the state.

Now, the second thing which this language I believe prevents the governor from doing is this: it prevents the governor from appointing himself to a state board or commission, because being on those boards or commissions would be an office under the state. If it were not for this language, I think it might be possible that the governor, if he should not find someone that in his opinion was as well qualified in an area as himself, might appoint himself to the civil service commission, or some other of the various boards or commissions of our state. I think that we all agree that in the long run this would not be in the best interests of the state of Michigan, and it should be prevented.

Now, I believe there may also be a third reason for retaining this section. That is this. In discussing the office of the auditor general, we have talked a good deal about the fact that the legislature imposes sometimes the burden of an additional office or additional duty upon this constitutional officer. The long range result of this is that the officer is burdened with too many offices and too many things to do, and has a difficult time doing the primary functions properly. It seems to me that this section is a protection to the governor, in that it prevents the legislature from assigning to the governor any other office under this state, which the legislature, as you know, by a 2/3 vote of both houses at any time could do. I think this is a protection to the governor, particularly in the times in the future when there might unhappily be great controversy between those 2 branches of government. It is for this reason that I ask you to reconsider the vote by which we passed this exclusion report.

The exclusion report also covers, as I understand, section 15, which says:

> Sec. 15. No person elected governor or lieutenant governor shall be eligible to any office or appointment from the legislature, or either house thereof, during the time for which he was elected. All votes for either of them for any such office shall be void.

I think it's quite clear that the primary purpose, perhaps the sole purpose, why this was adopted was because at the time of adoption the state legislatures were burdened with the duty of selecting senators. Today, of course, that is not the law. Therefore, it would seem to me that this section 15 gives little, if any, additional protection over section 14, and can therefore be well deleted from the constitution. Thank you.

CHAIRMAN MILLARD: The question is on the motion to reconsider. Mr. Martin.

MR. MARTIN: Mr. Chairman, the provision which the committee had proposed was eliminated yesterday. That was proposed after consideration of the fact that we were eliminating these 2 sections. But it was felt that even with or without it, it was not necessary to retain these 2 sections in the constitution.

As Mr. Wanger has pointed out, section 15 was designed to deal with the problem of the possible appointment of the governor or lieutenant governor to a senatorship, and this is no longer possible under the present federal law, so there was no question about eliminating section 15.

As far as section 14 is concerned, these were the committee considerations. First, ½ of the states have no such provision in their constitution and have never found it necessary to have such a provision. Secondly, the possibility of the governor holding an office which was clearly incompatible with the office of governor is subject, under common law, to court declaration and to the determination that such other office would be incompatible and could not be held at the same time. It is true that the court at the time of the Pingree case relied on section 14, but it is also true that it did not have to rely on section 14; it could have relied upon the common law in this matter. Third, it is clear that the legislature can legislate on this matter if it finds that it is desirable to express a dual officeholding provision of this kind.

For those reasons the committee thought it was unnecessary to include this section, and for the same reasons I think the committee would feel that it is not necessary to reconsider the action which the convention took yesterday.

CHAIRMAN MILLARD: Mr. Wanger.

MR. WANGER: With regard to the point that the common law covers the situation, I would say first of all that the common law rule of incompatibility is in many cases quite unclear when applied to specific cases. Secondly, of course, that the common law can always be changed by a simple statute passed

by the legislature; of course, by a 2/3 vote, if the governor should happen to veto it.

With regard to the question of the power of the legislature to act in this area, I would suggest that at least with respect to offices created by the constitution itself the legislature would be powerless to prescribe any additional qualifications for the job, and therefore the legislature would not be able to take care of this situation. Inasmuch as this situation includes many boards to which the governor might appoint himself, and since the governor would naturally be politically the most powerful person in the state of Michigan, under practically any circumstances, I think we should follow the good sense of our forefathers who put this into our state constitution, and retain it.

CHAIRMAN MILLARD: The question is on the motion to reconsider Exclusion Report 2027. All in favor of reconsideration will say aye. Opposed, no.

DELEGATES: Division.

CHAIRMAN MILLARD: Division is called for. Is there a sufficient number up? There is a sufficient number. The question is on the motion of Mr. Wanger to reconsider the action which adopted Exclusion Report 2027. All of those in favor of reconsideration will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the motion to reconsider, the yeas are 53; the nays are 57.

CHAIRMAN MILLARD: The motion does not prevail. Is there anything further on your desk in regard to the executive branch proposals?

SECRETARY CHASE: Nothing else, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, are we through with all matters?

CHAIRMAN MILLARD: We are through with all matters concerning the executive branch which are on the secretary's desk at this time.

MR. MARTIN: Then I move that the committee rise, Mr. Chairman.

CHAIRMAN MILLARD: Before the Chair puts the motion, may the Chair express its thanks to the committee of the whole, to the delegates, for their very courteous treatment? (applause) The Chair became cornered 2 or 3 times, and you very obligingly helped the Chair out. The Chair thanks you.

MR. MARTIN: Mr. Chairman, before you depart from the rostrum, I think the applause is evidence of the delegates' feelings, but may I, personally, on behalf of the committee on executive branch, as well as the delegates, express our appreciation for your fairness and impartiality in handling our somewhat complicated problems. Thank you very much. (applause)

CHAIRMAN MILLARD: Thank you, Mr. Martin. Mr. Marshall.

MR. MARSHALL: Mr. Chairman, I just want to echo those remarks. I think that the General has been one of the best sparring mates I have ever had.

CHAIRMAN MILLARD: Thank you. The Chair would also like to say that during the course of one of the hot debates, a very encouraging note was received from Delegate Marshall. It says, "Don't just sit there; worry!" (laughter)

The Chair also wants to express its appreciation to our parliamentarian, who helped me out so courageously at times. With that, the Chair will put the question. The question is on Mr. Martin's motion that the committee do now rise. All in favor will say aye. Opposed, no.

The motion prevails.

[Whereupon, the committee of the whole having risen, President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President, the committee of the whole has had under consideration certain matters on which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Exclusion Report 2027,** A report recommending the exclusion of article VI, sections 14 and 15 of the constitution. It reports this exclusion report back to the convention with a recommendation that it be adopted.

PRESIDENT NISBET: The question is on the adoption of the exclusion report. Those in favor will say aye. Opposed, no.

Exclusion Report 2027 is adopted, and referred to the committee on style and drafting.

For Exclusion Report 2027 as referred to the committee on style and drafting, see above, page 1730.

SECRETARY CHASE: Mr. President, the committee of the whole has also had under consideration **Committee Proposal 71,** (bf) A proposal to provide for the election, term and duties of state officers; allocation of departments, administrative reorganization, appointment and removal of department heads, supervision of departments, appointments to fill vacancies, provisional appointments, and removal or suspension from office by the governor. It reports this committee proposal back to the convention with several amendments, recommending the amendments be agreed to, and that the proposal as thus amended do pass.

Following are the amendments recommended by the committee of the whole:

[1. Amend page 1, line 10, after "Sec. a.", by striking out lines 15 through 19, and inserting "The governor, lieutenant governor, secretary of state, and attorney general shall be elected at the general biennial election in 1964 and in each alternate even numbered year beginning in 1966. They shall, after 1966, serve for terms of 4 years beginning at 12:00 o'clock noon on the first day of January next succeeding their election.".

2. Amend page 1, line 20, after "lieutenant governor" by inserting a comma and "secretary of state and attorney general".

3. Amend page 2, line 17, after "major purposes" by changing the period to a comma and inserting "but at no time shall an examining or licensing board be composed of or governed by a majority of members of a competitive profession.".

4. Amend page 3, line 13, after "attorney general.", by striking out the balance of the line, all of line 14, and through "amended,", in line 15.

5. Amend page 3, line 15, after "executive" by inserting a comma and "other than an elective official,".

6. Amend page 3, line 20, after "thereof" by inserting a comma and "unless elected or appointed as otherwise provided in this constitution,".

7. Amend page 4, line 6, after "governor" by inserting a comma and "unless otherwise provided by the constitution".

8. Amend page 5, line 5, after "officer" by striking out "under impeachment" and inserting a comma and "other than a judicial officer".

9. Amend page 5, line 24, after "appointment.", by inserting "If not disapproved within such period of time the appointment shall stand confirmed.

No provision of this constitution or of law or executive order authorized herein shall shorten the term of any person elected to state office at a statewide election in or prior to November, 1962. In the event the duties of any of such officers shall not have been incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated.".

10. Amend page 5, following section g, by inserting a new section to read as follows:

"Sec. h. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as shall be prescribed by law.

The state highway commission shall consist of 4 members, not more than 2 of whom shall be members of the same political party, appointed by the governor with the advice and consent of the senate for 4 year terms. No 2 members shall have conterminous terms.

The state highway commission shall appoint a state highway director, who shall be a competent highway engineer and administrator. He shall be the chief executive of the state high-

way department and shall be responsible for the execution of policy of the state highway commission.".

11. Amend page 5, following section h, by inserting a new section to read as follows:

"Sec. i. There is hereby created a civil rights commission which shall consist of 4 persons, not more than 2 of whom shall be members of the same political party, who shall be appointed by the governor, with the advice and consent of the senate, for 4 year terms. It shall be the duty of the commission, in a manner which may be prescribed by law, to investigate violations of, and to secure the protection of the civil right to employment, education, housing, public accommodations, and to such other civil rights as provided for by law and the constitution. The legislature shall provide annually sufficient funds for the effective operation of the commission. No member of the commission shall be eligible for election or appointment to public office during the term for which he was appointed nor for 2 years thereafter.

The commission shall have the power to promulgate rules and regulations, hold hearings, administer oaths, require the attendance of witnesses and the submission of records, to take testimony, to issue appropriate orders and such other powers as are necessary to carry out the purposes of this commission, except as otherwise provided by law or this constitution. These provisions shall not be construed to deny, or enable or allow the denial of, any direct and immediate legal or equitable remedy in the courts of this state, to any person affected thereby.".]

MR. IVERSON: Mr. President.

PRESIDENT NISBET: Mr. Iverson.

MR. IVERSON: I move that we recess for ½ hour.

PRESIDENT NISBET: The question is on the motion of Mr. Iverson to recess for ½ hour, to approximately 10:00 o'clock. Those in favor will say aye. Opposed, no.

The motion prevails. We are recessed until 10:00 o'clock.

[Whereupon, at 9:30 o'clock a.m., the convention recessed; and, at 10:00 o'clock a.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, I move that the consideration of the report of the committee of the whole relative to Committee Proposal 71 be postponed until the afternoon session of next Tuesday.

PRESIDENT NISBET: The question is on the motion of Mr. Brake. Mr. Downs.

MR. DOWNS: Mr. President, may I ask through the Chair a question of the maker of the motion?

PRESIDENT NISBET: You may. Mr. Brake.

MR. DOWNS: For what purpose do you think we should wait until Tuesday to deal with this problem?

MR. BRAKE: Because we have some studying we want to do on it.

MR. DOWNS: Could I ask, Mr. President, if he thinks we did not have adequate discussion on this proposal?

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: I think we had a great excess of discussion.

MR. DOWNS: That answers my question, Mr. President. I see no reason—if I still have the floor—

PRESIDENT NISBET: You have.

MR. DOWNS: —for postponing discussion. I believe that we had a very long debate. We worked late last night. The matter is still fresh in our minds. We have gone on on this for a long period of time, and I for one would rather see us clear the matter up today, unless some compelling reason can be shown for postponing action.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: May I ask a question of Delegate Brake?

PRESIDENT NISBET: You may, if he cares to answer.

MR. MARSHALL: Mr. Brake, could you tell me if it's all of the report on Committee Proposal 71, or just portions of it, or just one section of it, that brings about the delay?

MR. BRAKE: All of it.

MR. MARSHALL: Mr. President and delegates, I would have to oppose the postponing of the report on the spur of the moment. I think we have had ample discussion on the entire provision. We have talked about it here for days. I think everybody understands it. It is fresh in our minds.

On more than one occasion here, time and time again, this has happened. When we were debating in committee of the whole the report of the executive branch, the chairman of the committee, I think without talking to any of the other members of the committee, and certainly without talking to the minority, would get up on this floor and shuffle the calendar, maneuver it about, and set sections of it to the end of the calendar when we were prepared to proceed with debate. I don't think this is the way to run the committee. It leaves us, in the minority, in the position of not knowing from one moment to the next where we are going, what we are doing, and what we are doing it for. I resent the continual changing of this calendar, shuffling the proposals around to satisfy the wishes of the majority, without even the consideration of discussing it with the minority.

I think it's highly unfair, and I think any fairminded individual would also resent it. And I would oppose putting Committee Proposal 71 to the end of the calendar, or postponing the report of it until Tuesday; and ask that we proceed with the debate and the votes. I might tell you that I had not intended, in the convention, to give any long winded talks on the amendments that we have before the convention because, as Delegate Brake has pointed out, we have had an excess of discussion. We had not intended to have any long discussion of these now; merely to make a few brief supporting remarks on the amendments, and vote on them. I cannot see any good logical reason for postponing the votes on this particular proposal at this time.

Again, I think it is highly unfair to the minority to continually and constantly shuffle this calendar without even discussing it with the leaders of the minority party in this convention.

MR. WOOLFENDEN: Point of order, Mr. President.

PRESIDENT NISBET: You may state it.

MR. WOOLFENDEN: I understand this motion to be a motion to lay on the table, and under rule 48 it is not debatable. Can I have a ruling of the Chair, please?

PRESIDENT NISBET: The motion of Mr. Brake is to postpone until Tuesday, a definite time, the report of the committee of the whole relative to Committee Proposal 71. Mr. Hodges.

MR. HODGES: Mr. President, this is the most shocking thing to date at this convention. (laughter) Laugh if you want, but it happens to be true. At least 2/3 of this constitution was dealt away in a deal 2 weeks ago, and now they want to put it in another caucus and deal away that part of it. If we are going to decide this constitution, let us decide it on this floor. We adopted rules so the public could know what is going on, and we have open committee meetings and open sessions here. Instead, what has happened is that every deal is being made off this floor in the caucus of the majority party, and now we are supposed to help them out by another 5 days' delay. What happens if you can't line your troops up then? Do we have another 5 day delay? You said you wanted to adopt a time schedule here to get things done, and now we are asked for a 5 day delay on what we are doing now. I oppose it.

MR. NORD: Mr. President, a point of convention privilege.

PRESIDENT NISBET: Mr. Nord.

MR. NORD: This raises the same question that we had 2 weeks ago on Friday: whether or not we are going to have a convention with all of the delegates in a position to participate in it. We have debated the question that is now about to be postponed. All of the delegates have debated at terrific length.

PRESIDENT NISBET: Mr. Nord, will you state your question of personal privilege?

MR. NORD: The question is simply this: do the delegates determine the issues of this convention by debate on the floor, and then vote, with a record roll call vote, or do some of the delegates debate off the floor?

PRESIDENT NISBET: Mr. Nord, that's not a question of personal privilege.

MR. NORD: I didn't say it was a personal privilege. I said it was a convention privilege.

PRESIDENT NISBET: It is not a convention privilege, either.

MR. NORD: Mr. President, there are 144 delegates, and 144 of us wish to debate these questions and wish to decide them. We don't wish to have them debated off the floor. I assert that it is a convention privilege to debate them on the floor, decide them on the floor, and to vote on the floor; and not to take them off the floor. I therefore say that this particular proposition that is before us vitiates not just one section of the constitution, it vitiates the convention.

MR. IVERSON: Mr. President, I move the previous question.

PRESIDENT NISBET: The demand for the previous question has been made. Is that demand seconded? There is a sufficient number up. The question now is: shall the previous question be put? Those in favor say aye. Those opposed, no.

DELEGATES: Division.

PRESIDENT NISBET: Is the demand for a division vote seconded?

MR. DOWNS: I demand the yeas and the nays, Mr. President.

PRESIDENT NISBET: The yeas and the nays have been demanded. Is the demand for the yeas and nays supported? The demand is supported. Those in favor of putting the previous question will vote aye. Those opposed will vote no.

MR. VAN DUSEN: Mr. President, I have just a point of information, if I might.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: It is my understanding that the journal of yesterday's proceedings will not be available until Monday, is that correct?

PRESIDENT NISBET: That is correct. Do you have a question, Mr. Marshall?

MR. MARSHALL: Mr. President, I wanted to make a brief statement, if I'm not out of order.

PRESIDENT NISBET: The vote has been ordered, Mr. Marshall.

MR. MARSHALL: I can't make a statement?

PRESIDENT NISBET: No. The vote is on ordering the previous question. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—82

Allen	Hanna, W. F.	Prettie
Andrus, Miss	Hannah, J. A.	Pugsley
Anspach	Haskill	Radka
Batchelor	Hatch	Richards, L. W.
Beaman	Heideman	Rood
Bentley	Higgs	Rush
Blandford	Howes	Seyferth
Bonisteel	Hoxie	Shackleton
Boothby	Hubbs	Shaffer
Brake	Hutchinson	Shanahan
Brown, G. E.	Iverson	Sharpe
Butler, Mrs.	Judd, Mrs.	Sleder
Cudlip	Karn	Spitler
Danhof	Kirk, S.	Stafseth
Dehnke	Knirk, B.	Staiger
Dell	Koeze, Mrs.	Sterrett
DeVries	Leibrand	Stevens
Donnelly, Miss	Leppien	Thomson
Doty, Donald	Martin	Tubbs
Durst	McLogan	Turner
Erickson	Millard	Tweedie
Farnsworth	Nisbet	Upton
Figy	Page	Van Dusen
Finch	Perras	Wanger
Gadola	Plank	White
Goebel	Pollock	Woolfenden
Gover	Powell	Yeager
Habermehl		

Nays—46

Austin	Garvin	Mahinske
Balcer	Greene	Marshall
Barthwell	Hart, Miss	McCauley
Binkowski	Hatcher, Mrs.	McGowan, Miss
Bledsoe	Hodges	Murphy
Brown, T. S.	Hood	Nord
Buback	Jones	Rajkovich
Cushman, Mrs.	Kelsey	Snyder
Dade	King	Stopczynski
Douglas	Krolikowski	Suzore
Downs	Kuhn	Walker
Elliott, A. G.	Lawrence	Wilkowski
Elliott, Mrs. Daisy	Lesinski	Wood
Faxon	Liberato	Young
Follo	Madar	Youngblood
Ford		

SECRETARY CHASE: On the vote on ordering the previous question, the yeas are 82; the nays are 46.

PRESIDENT NISBET: The previous question is ordered. The question now is on Mr. Brake's motion.

MR. DOWNS: Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I demand the yeas and the nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? There is a sufficient number up. The question now is on Mr. Brake's motion that the report of the committee of the whole relative to Committee Proposal 71 be laid over until Tuesday afternoon. Those in favor will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. DOWNS: A parliamentary inquiry, Mr. President.

PRESIDENT NISBET: May we finish the vote, please.

MR. DOWNS: Mr. President, this is for before the vote is announced. Could I ask the president to ask the secretary to read rule 67.

PRESIDENT NISBET: Mr. Secretary.

SECRETARY CHASE: Rule 67 reads as follows:

> No delegate shall be entitled to abstain from voting in any roll call unless he shall have stated his intention to abstain before the voting starts. He may voluntarily state his reasons for such abstention. Upon any announcement of intention to abstain, the delegate making such announcement, upon request of 5 delegates, may be required to state his reasons.

MR. DOWNS: I notice, Mr. President, that there are some delegates in the building or in the convention hall who have not voted. I believe that they are in violation of this rule, since they did not ask to abstain. Could I make a parliamentary inquiry as to whether those delegates are in violation of the rules of this convention?

PRESIDENT NISBET: The rules say that he shall not be entitled to abstain unless he has stated his intention.

MR. DOWNS: Mr. President, then could I inquire of the Chair the parliamentary means of seeing that those delegates who did not announce their intention of abstaining and have abstained and are in violation of the rules of the convention could get back into compliance with the rules of the convention?

MR. ROMNEY: Mr. President.

PRESIDENT NISBET: Mr. Downs, you may request the votes. Mr. Romney.

MR. ROMNEY: Mr. President, probably Mr. Downs' inquiry relates to the fact that I have abstained from voting. And in the event that that should happen to be the case, I would like to say to Mr. Downs that I have abstained from voting because the particular things that are being voted upon are not things on which there has been sufficient discussion, either on the floor or off the floor, for me to take a position on. Consequently, I have refrained from voting on these motions.

MR. DOWNS: Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I'm sorry any delegate implied that I was referring to any particular delegate. (laughter) I mentioned there were several names on the board of delegates who were in the convention hall and had not voted. I believe that be-

cause they did not announce abstaining, they are in violation of rule 67. I call this to the attention of the convention, and ask the president, as a parliamentary inquiry: how can we see that the rules of this convention are carried out?

MR. L. W. RICHARDS: Mr. President.

PRESIDENT NISBET: Mr. Richards.

MR. L. W. RICHARDS: Mr. President, I abstained. I have a reason. I had some other plan that I would prefer to this.

PRESIDENT NISBET: Mr. Downs, the Chair is informed that you can request their vote. However, if they refuse to vote there is no procedure to do anything else about it.

MR. DOWNS: Mr. President, I request the vote of all delegates who are in the convention hall and have not voted on this roll call.

PRESIDENT NISBET: The request of Mr. Downs is that all people in this hall who have not voted are requested to vote.

MR. YEAGER: Mr. President.

PRESIDENT NISBET: Mr. Yeager.

MR. YEAGER: I would like to point out that there has been an implication here that a delegate abstaining must state his reasons. I would simply remind you that it says "he may voluntarily state his reasons for such abstention." It is not a requirement.

PRESIDENT NISBET: Have you all voted? The secretary will announce the vote.

MR. DOWNS: Mr. President, just one final question. Is it the ruling of the Chair that this convention then has no means of requiring a delegate to vote, even though he is in violation of rule 67?

PRESIDENT NISBET: The Chair is so informed, Mr. Downs.

MR. MAHINSKE: Mr. President.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: Mr. President, as I understand the rule, on support of 5 other members, even a delegate who announces his intention to abstain must explain his reason for abstention. He may voluntarily explain it without support, and with support he must explain it.

PRESIDENT NISBET: The Chair thinks the ruling has been made, Mr. Mahinske, that there is no way under the convention rules to force a delegate to cast his vote.

MR. MARSHALL: A parliamentary inquiry, Mr. President.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Can a delegate abstain if he hasn't announced his intention prior to the taking of the vote?

PRESIDENT NISBET: As the Chair understands the rule, Mr. Marshall, it is that the delegate, if he has not given his reasons, shall vote. The point is that there's no power to enforce that rule.

MR. MARSHALL: Mr. President, I don't have the rule before me, and I'll have to check it again, but as I understand it a delegate who does not announce his intention to abstain cannot refuse to vote, number 1. And I remember one day on this floor some months ago when I abstained without announcing, and Delegate Van Dusen demanded my vote, and the Chair ruled that I had to cast my vote, and I did. I think Delegate Van Dusen recalls that. And I did the same thing on some other delegate where I demanded his vote where he had not announced his intention to abstain. That's number 1. Now, we just don't want a double standard. We want a ruling that is going to be the ruling of the convention that is going to stand for the duration of the convention.

Number 2, if a delegate abstains, I think on the demand of 5 delegates, under the rules he has to explain his vote. I'm not going to quarrel anymore with the ruling of the Chair. But I want the ruling on both of these points clear, and I want it in the record. Now, may I have the ruling, for the record?

PRESIDENT NISBET: Are you asking for someone's vote now, Mr. Marshall, who has not voted?

MR. MARSHALL: No.

PRESIDENT NISBET: The ruling of the Chair was this: according to rule 67, no delegate shall be entitled to abstain from voting unless he has stated his reasons. The point was this: that the ruling was that the convention has no way to force a vote if the delegate does not want to give that vote. It is the Chair's understanding in this case that the delegate who should have given the vote, or could have given it, did not give it.

MR. MARSHALL: At this time, Mr. President, may I explain my vote on this issue?

PRESIDENT NISBET: Certainly.

DELEGATES: No.

MR. MARSHALL: I believe you did say that I might explain my vote, did you not, Mr. President?

PRESIDENT NISBET: Have you abstained from voting? You have voted, Mr. Marshall, haven't you?

MR. ROMNEY: Mr. President.

PRESIDENT NISBET: Mr. Romney.

MR. WALKER: Point of order.

MR. ROMNEY: Again, I would like to do what I can to facilitate the action of this convention, and—

PRESIDENT NISBET: A point of order was made. Who made that? The Chair didn't get it. Mr. Walker.

MR. WALKER: I wonder if there weren't other delegates up asking for the floor earlier, and I wonder if Mr. Romney is in order in demanding the floor.

MR. MARSHALL: Mr. President, if I can explain my vote, I think it will facilitate things.

PRESIDENT NISBET: Okay, explain it. Let's get it over.

MR. MARSHALL: I spoke against this motion in the first place, and on the vote I voted yes. After sitting down and thinking about it and talking to some of the other delegates, it became obvious to me that there were enough votes to carry this anyway. It's also obvious to me that there's mass confusion among the majority delegates on Committee Proposal 71. Therefore, I would prefer, myself, personally, to give them the 5 days, and this is the reason for switching from talking against it and voting for it. And that's why I wanted to explain it.

As a matter of fact, the question was asked of me by a couple of delegates, one from the majority party, were we seeking publicity, or did we want a sound constitution? And I want to make this emphatically clear to all: that we want as sound a constitution as we can get. But, realizing the voting strength in this convention, and if there is this mass confusion —and it's obvious to me there is mass confusion on this proposal amongst the majority delegates—I do not like these questions being settled off the floor, but I would much prefer to give them the 5 days that were asked for in the motion, and then when they come back to the floor of the convention maybe we can proceed with the rest of the business of the convention. If, after the 5 day delay, they want to come back and negate all that we have done to date, then they would have to assume that responsibility. And that's the reason for my yes vote. And I suggest that we proceed.

MR. DOWNS: Mr. President, I have a motion. I demand the regular order of business, and move that we continue with the business of the day.

The roll was called and the delegates voted as follows:

Yeas—87

Allen	Habermehl	Pollock
Andrus, Miss	Hanna, W. F.	Powell
Anspach	Hannah, J. A.	Prettie
Batchelor	Haskill	Pugsley
Beaman	Hatch	Radka
Bentley	Heideman	Richards, L. W.
Blandford	Higgs	Rood
Bonisteel	Howes	Rush
Boothby	Hoxie	Seyferth
Brake	Hubbs	Shackleton
Brown, G. E.	Hutchinson	Shaffer
Butler, Mrs.	Iverson	Shanahan
Cudlip	Judd, Mrs.	Sharpe
Danhof	Karn	Sleder
Dehnke	Kirk, S.	Spitler
Dell	Knirk, B.	Stafseth
DeVries	Koeze, Mrs.	Staiger

Donnelly, Miss	Kuhn	Sterrett
Doty, Dean	Lawrence	Stevens
Doty, Donald	Leibrand	Thomson
Durst	Leppien	Tubbs
Erickson	Mahinske	Turner
Everett	Marshall	Tweedie
Farnsworth	Martin	Upton
Figy	Millard	Van Dusen
Finch	Nisbet	Wanger
Gadola	Page	White
Goebel	Perras	Woolfenden
Gover	Plank	Yeager

Nays—44

Austin	Ford	McCauley
Balcer	Garvin	McGowan, Miss
Barthwell	Greene	McLogan
Binkowski	Hart, Miss	Murphy
Bledsoe	Hatcher, Mrs.	Nord
Brown, T. S.	Hodges	Rajkovich
Buback	Hood	Snyder
Cushman, Mrs.	Jones	Stopczynski
Dade	Kelsey	Suzore
Douglas	King	Walker
Downs	Krolikowski	Wilkowski
Elliott, A. G.	Lesinski	Wood
Elliott, Mrs. Daisy	Liberato	Young
Faxon	Madar	Youngblood
Follo	McAllister	

PRESIDENT NISBET: The secretary will announce the vote.

SECRETARY CHASE: On the adoption of the motion to postpone consideration of the report of the committee of the whole on Committee Proposal 71, the yeas are 87; the nays are 44.

PRESIDENT NISBET: The report relative to **Committee Proposal 71** is postponed until Tuesday afternoon.

Explanation of vote submitted by Mr. Wanger:

Because of the excited and unwarranted statements made upon the convention floor this morning regarding the question of postponing consideration of the report of the committee of the whole relative to Committee Proposal 71 from today to the early part of next week, and because of the unfortunate impression those statements may have created regarding the convention's work, I desire to explain my vote pursuant to rule 65.

The principal reason for my vote upon this question was that the convention journal of yesterday's unusually long and involved deliberations on section i of the proposal was (due to the lateness of the night session) not available and was not to be available until the first of next week; nor was any other written copy of yesterday's action on section i available. Because of the great importance and complexity of this issue and of yesterday's deliberations, it was completely impossible this morning to vote intelligently upon yesterday's action without having a written copy of that action available.

We are now on the order of—Mr. Mahinske.

MR. MAHINSKE: Mr. President, I have a parliamentary inquiry here. I would like a ruling from the Chair if it is proper to put a vote on a preferential motion to the convention while some other party is on the floor speaking. Now, this happened yesterday when we were speaking under privilege of the house. One of the delegates got up during the time that another delegate was speaking and yelled that he wanted a recess, and the question was put, and the delegate was cut off cold. The same thing has happened this morning. The same thing has happened in the past. I just wonder if it is proper, even though the motion is preferential, to put the question on the motion while someone else is speaking at the time.

PRESIDENT NISBET: Mr. Mahinske, the other day that same matter came up, and at that time the Chair ruled that a delegate speaking on the floor should not be interrupted except for a point of personal privilege or a point of order.

MR. MAHINSKE: My question is: is it proper, even when he is interrupted, to put the question or put the vote to the preferential motion?

PRESIDENT NISBET: Well, the Chair would say he should not be recognized.

MR. MAHINSKE: Thank you.

PRESIDENT NISBET: We are now on the order of **general orders**. The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move that the convention resolve itself into committee of the whole for consideration of propositions on general orders.

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. Those in favor say aye. Opposed, no.

The motion prevails. Mr. Hutchinson.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the **committee of the whole.**

CHAIRMAN HUTCHINSON: The committee will be in order. Mr. Marshall.

MR. MARSHALL: Mr. Chairman, may I ask a question? What is the next item on general orders that we are now about to take up?

CHAIRMAN HUTCHINSON: The report of the committee on legislative organization.

MR. MARSHALL: Mr. Chairman, unfortunately, I don't believe that we are prepared at this moment to proceed with this question on legislative organization, because we had expected and spent all of our time yesterday and last night preparing to finish the work on the proposals of the committee on executive branch, and if we are compelled to proceed with it at this moment it puts us at a disadvantage. Of course, we can scurry around and get our presentation prepared, but we had not expected this—this is a spur of the moment thing that was sprung on us—and if there's any way that we could at least postpone this until Monday, or if we could recess until Monday, or recess until the morning and come back, I would greatly appreciate it.

Mr. Chairman, I'm not going to belabor this, but we did a lot of work preparing for the committee on executive branch proposals, and this is kind of an unusual twist that has been taken here where we do what was done this morning, and we certainly are not prepared, I don't think, at this time to proceed on legislative organization. I just wonder if it would be possible to work out something to give us at least ½ day to get our presentation together.

CHAIRMAN HUTCHINSON: Does the gentleman make any motion?

MR. MARSHALL: I would like to move that we postpone the discussion on legislative organization until Monday.

CHAIRMAN HUTCHINSON: The question is upon the motion of Mr. Marshall to postpone consideration and discussion of Committee Proposals 79 and 80 until Monday. Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, I should like to say that while it may well be that Mr. Marshall is not prepared, the committee on legislative organization has been continuously prepared to present this subject for at least 6 weeks. We have expected every day for the last week that that day or the next day we would be called upon to present this business.

The members of my committee, including Dr. Nord, the minority vice chairman of our committee, has been aware of the procedure that we propose to follow; and with your permission, sir, I should just like to say that what we intend to do is this. I would like to make the opening statement, and then we will move to Committee Proposal 79, on which there is no minority report. We will do well indeed if we get through this today. Then we will go on to Committee Proposal 80, and begin with the minority report, which Mr. Nord is ready to present, and which in any case we will not get to until Monday or Tuesday.

CHAIRMAN HUTCHINSON: The question is upon Mr. Marshall's motion. Mr. Marshall.

MR. MARSHALL: Mr. Chairman, could I just change the motion? I would agree with Dr. Hannah that we can proceed with Committee Proposal 79, and I would like to amend the

Whereas, my mind has gotten numb from arguments so staunch,

Whereas, I need some food for thought,

Of this I must confess;

I move, Mr. President, that we do now recess. (laughter)

PRESIDENT NISBET: The question is on the motion of Mr. Turner. Those in favor say aye. Opposed, no.

We are recessed until 1:30.

[Whereupon, at 11:40 o'clock a.m., the convention recessed; and, at 1:30 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Dr. Hannah.

MR. J. A. HANNAH: Mr. President, I move that further consideration of the report of the committee of the whole relative to **Committee Proposal 71** be postponed until after the convention has completed action on the report of the committee of the whole relative to Committee Proposal 80 and Exclusion Report 2046. That is the motion that I indicated this morning I would make this afternoon.

For last previous action on the report, see above, page 2013.

PRESIDENT NISBET: The question is on that motion of Delegate Hannah. Mr. Hodges.

MR. HODGES: I have a couple of questions I would like to ask Dr. Hannah.

PRESIDENT NISBET: If he cares to answer.

MR. HODGES: What is the reason for this further delay?

MR. J. A. HANNAH: This is no further delay, Mr. Hodges. When we put over 71 last Thursday, and it was put over until a time certain, this afternoon, at that point I raised the question with the president of the convention and others and indicated that it was my hope that when we begin to consider the recommendations of the committee on legislative organization, that we might proceed until the completion, and the reason for my recommendation is just that; the fear that if we now return to 71 that was before the committee of the whole for approximately 2 weeks, and we go through the usual routine of having offered from the floor all of the amendments that were defeated in committee of the whole, we are likely to extend this discussion for a long period. We have just finished listening to a 6 hour presentation by the members of the minority party, and I should very much dislike to arrive at a situation where we have to have large sections of that repeated before we can proceed with our business.

MR. HODGES: Dr. Hannah, if you will recall, this is the very reason that we objected last Thursday to the putting over of this section in the first place. I would like to ask one further question: will the time used for this delay be used to further water down the Austin amendment that has had substantial bipartisan support and, I think, had 78 votes at its last count?

PRESIDENT NISBET: Dr. Hannah.

MR. J. A. HANNAH: Mr. President, Mr. Hodges, of course I am not in a position to answer that. Mr. Hodges knows full well what my feelings and convictions are with reference to this matter of civil rights, and anything that would result in the coming up with a proposal that was meaningless would be thoroughly distasteful to me and I would not be a party to it.

MR. HODGES: Well, Dr. Hannah, I fully appreciate your concern in this field and I don't think anyone can question it. My only concern, though, as a delegate, is that this time that you request would be used to further water down this amendment. If I can be given this assurance through yourself or through the majority party that this is not the purpose and that this time extension will not be used to further emasculate the Austin amendment, then I, for one, will go along with this request. If, though, I am to be voting on a request which would in effect allow for the emasculation of what I feel was a fine civil rights provision, which did have substantial support and 78 votes last Thursday, and which could have been settled in 10 minutes after we had gotten done but it was the desire of the majority party to caucus on this thing further—if I can be given this assurance, I will go along. If not, I don't see how I, in good conscience, nor members of my party, can go along with this request.

PRESIDENT NISBET: Dr. Hannah.

MR. IVERSON: Mr. President, I move the previous question.

MR. J. A. HANNAH: Mr. President, I would like to give Mr. Hodges assurance, if it is in order, that I do not believe that what Mr. Hodges predicts might happen will happen. This is certainly not the motive that causes me to make this motion, and I give him that assurance with conviction.

PRESIDENT NISBET: The previous question has been demanded. Is that demand seconded? A sufficient number up. The question now is—

MR. MAHINSKE: Point of order, Mr. President. This is a prime example of what I directed to the Chair the other day. As I recall, Mr. Iverson right now was not recognized. He did exactly what I pointed out—

A DELEGATE: Mr. President, I think he is out of order.

PRESIDENT NISBET: Mr. Mahinske, when the Chair—

MR. MAHINSKE: I don't know that a point of order can be out of order. I would like a ruling on that.

PRESIDENT NISBET: Mr. Mahinske, when Mr. Iverson rose and addressed himself to the point, he was not recognized. The Chair had already recognized Dr. Hannah. Dr. Hannah completed his statement. Then the Chair recognized Mr. Iverson.

MR. MAHINSKE: Did Mr. Hannah have the floor? Had he yielded the floor at that time?

PRESIDENT NISBET: He didn't need the floor. He had completed his statement.

MR. MAHINSKE: This is your ruling?

PRESIDENT NISBET: That is right. The question now is: shall the previous question be put? Those in favor will say aye. Opposed, no.

The motion prevails. The question now is on the motion of Dr. Hannah.

DELEGATES: Division.

PRESIDENT NISBET: A division—

MR. VAN DUSEN: The question was: shall the previous question be put?

PRESIDENT NISBET: A division has been demanded. Is that demand seconded? A sufficient number up. Those in favor—

MR. MADAR: Mr. President, I would like to request the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Not a sufficient number up.

Mr. Brown.

MR. T. S. BROWN: Mr. President, I have a parliamentary inquiry. Is it possible at this time to entertain a motion to divide the question?

PRESIDENT NISBET: The only question, Mr. Brown, is: shall the previous question be put? The Chair doesn't know how you are going to divide that one. (laughter)

MR. T. S. BROWN: All right. I will make that motion in a minute, then.

PRESIDENT NISBET: The question is: shall the previous question be put? Those in favor of the putting of the previous question will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the vote on ordering the previous question, the yeas are 82; the nays are 30.

PRESIDENT NISBET: The motion prevails, the previous question is ordered. The question now is on the motion of Dr. Hannah—

MR. MARSHALL: Mr. President.

PRESIDENT NISBET: Just a minute. The question now is on the motion of Dr. Hannah that consideration of the report of the committee of the whole relative to Committee Proposal

71 be postponed until the completion of legislative organization. Mr. Brown is recognized.

MR. T. S. BROWN: Mr. President, is a motion to divide the question now in order?

PRESIDENT NISBET: What can you divide, Mr. Brown?

MR. T. S. BROWN: I would like to move that that portion of the report on 71 concerning the civil rights commission be separated and voted on separately.

PRESIDENT NISBET: That is not in order, Mr. Brown. Mr. Marshall.

MR. MARSHALL: Mr. President, I wish to announce my intention to abstain from voting on this question, and I would like at this time to have the privilege of explaining my abstention.

PRESIDENT NISBET: You may.

MR. MARSHALL: As vice chairman of the committee on executive branch, the rules have been changed on several occasions postponing, tabling, delaying proposals that were before the convention without consulting with the minority vice chairman on the committee.

I think that the display here a moment ago of Mr. Iverson's is evidence of the contempt with which the majority holds the opinions of the minority, the obvious attempt to move the previous question in order to avoid hearing the position or the opinions of the minority. This was tabled. Another reason that I am abstaining is that to my knowledge, this is the only committee—and I am talking about the committee on executive branch—that had proceeded throughout all of its debate and deliberations in the committee of the whole and was ready to rise and to proceed in the convention to dispose of the committee on executive branch; because of some obvious problems within the majority, this was tabled until today. Now we are going to have a further postponement of the discussion.

I am the one that argued in the beginning that we should have taken apportionment up early in the convention and disposed of it, as so many of the other issues were directly related to that of apportionment. I do resent—and I cannot vote on this—the move that was made a moment ago on the part of the leader of the Republican caucus to not hear the minority viewpoint. Of course, this has been evident throughout the convention that this has been the case, and I could not in good conscience vote on this issue because I am not in accord with it. I do not think that the majority has been fair. On occasions here the rules have been changed from time to time as it suits the fancy of the leaders of the Republican caucus. I am not so sure that it wouldn't be wise if we might recess for 2 weeks, let the Republican caucus decide what the constitution is going to be, and call us back to vote on it.

PRESIDENT NISBET: The question is on the motion of Dr. Hannah to postpone consideration of the report of the committee of the whole regarding Committee Proposal 71. Those in favor will vote aye. Those opposed, no.

The motion prevails. The report of the committee of the whole on **Committee Proposal 71** is postponed until after the report on Committee Proposal 80 and Exclusion Report 2046 by the committee of the whole.

The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move the convention resolve itself into committee of the whole for the further consideration of proposals on **general orders.**

PRESIDENT NISBET: The question is on the motion of Mr. Hutchinson. Those in favor will vote aye. Opposed, no.

The motion prevails. Mr. Hutchinson.

[Whereupon, Mr. Hutchinson assumed the Chair to preside as chairman of the committee of the whole.]

CHAIRMAN HUTCHINSON: The committee will be in order. The Chair recognizes the chairman of the committee on legislative organizaiton. Dr. Hannah, on **Committee Proposal 80.**

MR. J. A. HANNAH: Mr. Chairman, it is my understanding that we now have before us for consideration the minority plan that has been presented at some length, and before I urge the committee not approve the minority report amendment, I should like the privilege of calling upon the vice chairman of the committee on legislative organization, Judge Dehnke, to make some comments with reference to the supreme court decision of last week that has already been referred to several times as we were considering this matter.

MR. PELLOW: Parliamentary inquiry, Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Pellow.

MR. PELLOW: The question that I have to ask is this: is it not proper now to ask questions of the minority rather than yield to the vice chairman?

CHAIRMAN HUTCHINSON: The parliamentary situation as the Chair understands it is that the question is upon the minority report amendment. Dr. Hannah, the Chair understands, has completed his statement and he has suggested that Judge Dehnke be next recognized, and the Chair is prepared to recognize Judge Dehnke. After Judge Dehnke completes his debate—and this is the debate upon the minority report amendment—the Chair will then recognize Mr. Blandford. The Chair will then recognize Mr. Yeager, and then anyone else who desires recognition. But that is the list as it now stands. It is not the Chair's understanding that Dr. Hannah is assuming to control the floor. Is that correct, Dr. Hannah?

MR. J. A. HANNAH: That is correct. I would like the opportunity at some stage, and I do not care whether it is before the gentlemen you have mentioned; it may be desirable to put me on the list next. I have some comments to make with reference to the minority report amendment, but it makes no particular difference when I do it.

MR. DOWNS: Parliamentary inquiry, Mr. Chairman.

CHAIRMAN HUTCHINSON: Mr. Downs.

MR. DOWNS: I certainly look forward to hearing Judge Dehnke's comments on the case that is before us. I take it from your ruling then that any of us who wish to make comments on his comments would get in the order and it might mean there had been several speakers intervening, and it is not the intent then to have the discussion confined to the subject matter of Judge Dehnke's comments? I am just asking for information.

CHAIRMAN HUTCHINSON: You are correct, Mr. Downs. There is no intent to confine the discussion to one phase. The question before the committee is the adoption of the minority report amendment, so anything having to do with the minority report amendment would be in order. The Chair recognizes Judge Dehnke.

MR. DEHNKE: Mr. Chairman and fellow delegates, if anyone is apprehensive that I intend to use the entire afternoon reviewing some 150 pages of judicial opinion, I would like to disabuse him now. This is one of those opinions which I think can be summarized for our present purposes in very short order. The question that we are all interested in is: what did the court hold and what did it not hold?

I refer first to page 11 of the controlling opinion written by Justice Brennan, in which he makes this summary of what he holds:

> In light of the district court's treatment of the case, we hold today only (a) that the court possessed jurisdiction of the subject matter; (b) that a justiciable cause of action is stated upon which appellants would be entitled to appropriate relief; and (c) because appellees raise the issue before this court, that the appellants have standing to challenge the Tennessee apportionment statutes.

The rest of his 50 pages of opinion are devoted to a discussion of earlier cases and to explain that they do not stand in the way of this finding that the court makes.

I proceed next to the opinion of Mr. Justice Douglas, who on page 4 of his opinion uses this language:

> There is a third barrier to a state's freedom in prescribing qualifications of voters and that is the equal protection clause of the fourteenth amendment, the provision invoked here. And so the question is, may a state weight the vote of one county or one district more heavily than it weights the vote in another?
>
> The traditional test under the equal protection clause has been whether a state has made "an invidious dis-

be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to 2 or more representatives shall be divided into single member representative districts as follows:

(1) The ratio of representation for each representative district shall be determined by dividing the population of the representative area by the number of seats to which it is entitled. Each district within each area shall contain not less than 75 per cent nor more than 125 per cent of that area's ratio of representation.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population adhering to county lines.

Sec. c. In counties having more than one representative or senatorial district, the territory annexed or merged to a municipality shall become a part of the contiguous representative or senatorial district of the municipality with which it is combined, upon the effective date of the annexation or merger: Provided however, The foregoing shall not apply to any annexation or merger across county lines.

No legislator shall be deemed to have vacated his office by virtue of the above section.

SECRETARY CHASE: Mr. President, the committee of the whole has also had under consideration **Exclusion Report 2046,** A report recommending the exclusion of article V, sections 2, 3 and 4; reports this back to the convention without amendment with a recommendation that it do pass.

PRESIDENT NISBET: The report of the committee of the whole is accepted and **Exclusion Report 2046** is referred to the committee on style and drafting.

For Exclusion Report 2046 as referred to the committee on style and drafting, see above, page 2178.

SECRETARY CHASE: That completes the report of the committee of the whole, Mr. President.

PRESIDENT NISBET: **Unfinished business.**

SECRETARY CHASE: Under the postponement order of April 3, the report of the committee of the whole relative to **Committee Proposal 71,** A proposal to provide for the election, term and duties of state officers, allocation of departments, administrative reorganization, appointment and removal of department heads, supervision of departments, appointments to fill vacancies, provisional appointments, and removal or suspension from office by the governor. The committee proposal was reported from the committee of the whole with several amendments with the recommendation that the amendments be adopted and the proposal, as thus amended, do pass. The report was postponed until the conclusion of the reports on the committee on legislative organization from the committee of the whole.

For last previous action on the report, see above, page 2075.

PRESIDENT NISBET: The question is on concurring in the amendments adopted by the committee of the whole. The secretary will read.

SECRETARY CHASE: Amendment 1.

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is on concurring in the amendment. Those in favor will say aye. Those opposed, no.

The amendment is adopted. The secretary will read.

SECRETARY CHASE: Amendment 2:

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is upon concurring in the amendment. Those in favor will say aye. Opposed, no.

The amendment is adopted.

SECRETARY CHASE: Amendment 3:

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is upon concurring in the amendment. The Chair recognizes Mr. Wanger.

MR. WANGER: Mr. President, I move that the convention do not concur in this amendment.

PRESIDENT NISBET: Mr. Wanger, those who are opposed to the amendment will vote no. Those who are in favor will vote aye.

MR. WANGER: Mr. President, speaking to this amendment — which was adopted, as I recall, by a narrow majority of the committee during a prolonged session — in examining this language, which is on page 844 of your journal, you can see that it is primarily legislative in nature. It was supported by people who, by their own admission, were concerned with one particular profession and I suggest did not make a sufficiently detailed analysis or case even on the basis of that profession alone for including such a restriction in our constitution.

As the business of the people of the state of Michigan becomes more specialized in this modern age and as the number of recognized professions in the state becomes larger, it is going to become increasingly more important to give the legislature complete latitude with regard to the subject of licensing those professions which it is determined by policy of the state should be licensed. I suggest that putting such a provision into the constitution will impede the legislature in effectively or most effectively carrying out that policy, and, therefore, I urge you not to support this particular amendment.

PRESIDENT NISBET: The question is upon concurring in the amendment. Those in favor will vote aye. Opposed will vote no. The Chair is in doubt. Mr. Stevens.

MR. STEVENS: May I have the amendment read again, please?

PRESIDENT NISBET: The convention will be in order. The secretary will read the amendment.

SECRETARY CHASE: This is amendment 3.

[The amendment was again read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: Those in favor of the amendment will vote aye. Those opposed will vote no.

MR. KUHN: Mr. President, in order to save time I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? A sufficient number up. The yeas and nays have been demanded. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 78

Allen	Finch	McAllister
Andrus, Miss	Follo	Murphy
Austin	Ford	Nisbet
Balcer	Goebel	Page
Barthwell	Gover	Perlich
Batchelor	Greene	Powell
Beaman	Hanna, W. F.	Prettie
Bentley	Hannah, J. A.	Pugsley
Blandford	Hart, Miss	Radka

Bledsoe	Haskill	Romney
Bonisteel	Hatcher, Mrs.	Rush
Boothby	Hood	Shackleton
Brake	Howes	Shaffer
Buback	Hoxie	Shanahan
Conklin, Mrs.	Hubbs	Sharpe
Dade	Hutchinson	Snyder
Dell	Iverson	Stafseth
Donnelly, Miss	Jones	Sterrett
Doty, Dean	Kelsey	Stopczynski
Doty, Donald	King	Suzore
Douglas	Kirk, S.	Thomson
Downs	Leibrand	Walker
Elliott, Mrs. Daisy	Leppien	White
Farnsworth	Lesinski	Wilkowski
Faxon	Madar	Young
Figy	Marshall	Youngblood

Nays — 44

Binkowski	Judd, Mrs.	Sablich
Cudlip	Karn	Seyferth
Cushman, Mrs.	Kuhn	Sleder
Danhof	Lawrence	Spitler
Dehnke	Martin	Staiger
Durst	McCauley	Stamm
Elliott, A. G.	McGowan, Miss	Stevens
Erickson	McLogan	Tubbs
Everett	Millard	Turner
Gust	Norris	Tweedie
Habermehl	Perras	Upton
Hatch	Plank	Van Dusen
Heideman	Pollock	Wanger
Higgs	Rajkovich	Yeager
Hodges	Richards, J. B.	

SECRETARY CHASE: On the question of concurring in the committee amendment to page 2, line 17, the yeas are 78; the nays are 44.

PRESIDENT NISBET: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Amendment 4:

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is on concurring in the amendment. Those in favor will vote aye. Opposed, no.

The amendment is adopted.

SECRETARY CHASE: Amendment 5:

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is on the amendment. Those in favor will vote aye. Those opposed, no.

The amendment is adopted.

SECRETARY CHASE: Amendment 6:

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is on concurring in the amendment. Those in favor will vote aye. Opposed, no.

The amendment is adopted.

SECRETARY CHASE: Amendment 7:

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is on concurring in the amendment. Those in favor will vote aye. Those opposed, no.

The amendment is adopted.

SECRETARY CHASE: And amendment 8:

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is upon concurring in the amendment. Those in favor will vote aye. Those opposed, no.

The amendment is adopted.

SECRETARY CHASE: Amendment 9:

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is on concurring in the amendment. Those in favor will vote aye. Opposed, no.

The amendment is adopted.

SECRETARY CHASE: Amendment 10:

[The amendment was read by the secretary. For text, see above, page 2009.]

PRESIDENT NISBET: The question is on concurring in the amendment. The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. President, I would like to call for the yeas and nays, a record roll call vote.

PRESIDENT NISBET: Is the demand seconded? Sufficient number up. Mr. Downs.

MR. DOWNS: Is it in order to speak on the proposed amendment at this point?

PRESIDENT NISBET: It is.

MR. DOWNS: Mr. President, I urge that we do not concur in the amendment. This would create a constitutional highway commission which would dilute responsibility. In the committee of the whole I believe I was unusually silent on this question and would very briefly like to state the objections.

At the present time we have a highway system that has proved to be better than satisfactory, as far as the users of the highways are concerned. The legislature can change this now, if there is sufficient desire for this. The proposal we have before us would create another commission. It does not mean the governor would have the responsibility of appointing the highway commission. It would dilute the authority.

I say to those who favor an elected highway commissioner — of which I am one — this does not meet the standard of election. And to those who favor the governor appointing the highway commissioner, I say that this does not meet their demands because the governor would not appoint the highway commissioner, but rather a 4 man board and there would be a constant question as to who was the administrator, who had charge of policy, and whether deciding where a road went was a question of administration or policy. It is a built in booby trap against an efficient, productive highway system that we now have. I urge that we vote no on this and maintain our present system.

PRESIDENT NISBET: The Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, Delegate Downs covered most of what I would have said. I gave all of the arguments that I could think of in committee of the whole. I stated then and I reiterate now that this is the most — without a doubt — the most ridiculous proposal that has been before this convention. I cannot urge too strongly the defeat of this amendment.

How you are going to take the highway system out of politics by appointing a 4 man commission which would be at odds with each other constantly, would be haggling among themselves, would have pressure applied to the highway director to build roads in certain sections of the state, depending upon who had the most political pressure? We also, inasmuch as the commission is appointed by the governor, would have tremendous pressure to trade roads for other items. I do not understand how this came about, other than I do know that it was part of the package deal that was worked out between 2 of the prominent delegates to this convention. This may satisfy the ego of a governor or a would be governor, but I don't think we are here to try and satisfy the eccentricities of governors or would be governors. You should give this serious thought, because I think that if this

Nays—69

Allen	Habermehl	Powell
Andrus, Miss	Hanna, W. F.	Pugsley
Anspach	Hannah, J. A.	Radka
Batchelor	Haskill	Richards, J. B.
Beaman	Hatch	Romney
Blandford	Howes	Rood
Bonisteel	Hubbs	Rush
Brake	Iverson	Seyferth
Cudlip	Judd, Mrs.	Shackleton
Danhof	Karn	Shaffer
Dehnke	King	Sharpe
Dell	Kirk, S.	Sleder
Donnelly, Miss	Knirk, B.	Staiger
Doty, Dean	Koeze, Mrs.	Sterrett
Durst	Kuhn	Thomson
Elliott, A. G.	Lawrence	Tubbs
Everett	Leppien	Turner
Farnsworth	Martin	Upton
Figy	McCauley	Van Dusen
Finch	McLogan	Wanger
Gadola	Nisbet	White
Goebel	Page	Woolfenden
Gover	Pollock	Yeager

SECRETARY CHASE: On the amendment to insert for the election of the highway commissioner, the yeas are 46; the nays are 69.

PRESIDENT NISBET: The amendment is not adopted.

The question now is on the following amendment:

1. Amend page 1, line 2, after "secretary of state" by inserting a comma and "superintendent of public instruction".

The previous question has been ordered. Those in favor of the amendment as it applies to the superintendent of public instruction will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—33

Austin	Hart, Miss	McAllister
Balcer	Hatcher, Mrs.	Murphy
Binkowski	Hodges	Nord
Bledsoe	Hood	Plank
Buback	Jones	Snyder
Douglas	Kelsey	Stopczynski
Downs	Lesinski	Suzore
Elliott, Mrs. Daisy	Liberato	Walker
Ford	Madar	Wilkowski
Greene	Mahinske	Wood
Garvin	Marshall	Youngblood

Nays—80

Allen	Gover	Powell
Andrus, Miss	Gust	Prettie
Anspach	Habermehl	Pugsley
Batchelor	Hanna, W. F.	Radka
Beaman	Hannah, J. A.	Richards, J. B.
Blandford	Haskill	Romney
Bonisteel	Hatch	Rood
Brake	Howes	Rush
Brown, G. E.	Hubbs	Seyferth
Cudlip	Iverson	Shackleton
Cushman, Mrs.	Judd, Mrs.	Shaffer
Danhof	Karn	Shanahan
Dehnke	King	Sharpe
Dell	Kirk, S.	Spitler
Donnelly, Miss	Knirk, B.	Stafseth
Doty, Dean	Koeze, Mrs.	Staiger
Doty, Donald	Kuhn	Sterrett
Durst	Lawrence	Thomson
Elliott, A. G.	Leibrand	Tubbs
Erickson	Leppien	Turner
Everett	Martin	Upton
Farnsworth	McCauley	Van Dusen
Figy	McLogan	Wanger
Finch	Nisbet	White
Follo	Page	Woolfenden
Gadola	Perras	Yeager
Goebel	Pollock	

SECRETARY CHASE: On the adoption of the amendment to insert the office of the superintendent of public instruction, the yeas are 33; the nays are 80.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Follo, King, Stamm and Sterrett offer the following amendment:

1. Amend page 3, line 17, after "consent of the" by striking out "senate" and inserting "house of representatives"; so the language will then read:

> When a single executive, other than an elective official, is the head of a principal department, he shall be nominated and, by and with the advice and consent of the house of representatives, appointed by the governor and he shall serve at the pleasure of the governor.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Follo and others. The Chair recognizes Mr. Follo.

MR. FOLLO: Mr. President, you caught me unawares. I didn't realize this was coming up so soon. The delegates may remember what I said the last time about this. I thought that in view of the way in which the senate has delayed and sometimes abused the privilege—at least it seems to some of us that they have abused the privilege of the consent—and since the house is closer to what we feel is representative of the people as a whole, closer to being chosen by population, or closer to that ideal, we feel it would be better to have consent in the house rather than in the senate. I don't think I need to say any more about it than that. Perhaps Mr. King, or Mr. Stamm or Mr. Sterrett wish to add to my comments.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, this was offered before. It was defeated in committee of the whole. I hope that you will vote no on it.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: I would just like to support the Follo-Sterrett amendment.

PRESIDENT NISBET: The question is on the amendment. Mr. Sterrett.

MR. STERRETT: I would just like to mention, Mr. President, that I still support this amendment, without just saying nothing. I hope that it is approved by the convention.

PRESIDENT NISBET: The question is on the adoption of the amendment. Those in favor will say aye. Those opposed, no.

A DELEGATE: Division.

PRESIDENT NISBET: A division has been demanded. Is that demand seconded?

MR. MARSHALL: I demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Sufficient number up. Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—44

Austin	Ford	Murphy
Balcer	Garvin	Nord
Binkowski	Hart, Miss	Perras
Bledsoe	Hodges	Pollock
Buback	Hood	Romney
Conklin, Mrs.	Jones	Snyder
Cushman, Mrs.	Kelsey	Staiger
Dade	King	Sterrett
Douglas	Lesinski	Stopczynski
Downs	Liberato	Suzore
Elliott, Mrs. Daisy	Madar	Walker
Erickson	Mahinske	Wilkowski
Everett	Marshall	Young
Faxon	McGowan, Miss	Youngblood
Follo	McLogan	

Nays—72

Allen	Gust	Page
Andrus, Miss	Habermehl	Plank
Anspach	Hanna, W. F.	Powell
Batchelor	Hannah, J. A.	Prettie
Beaman	Haskill	Pugsley
Blandford	Hatch	Radka
Bonisteel	Howes	Richards, J. B.
Brake	Hoxie	Rood
Brown, G. E.	Hubbs	Seyferth
Cudlip	Hutchinson	Shackleton
Danhof	Iverson	Shaffer
Dehnke	Judd, Mrs.	Shanahan
Dell	Karn	Sharpe
Donnelly, Miss	Kirk, S.	Sleder
Doty, Dean	Knirk, B.	Spitler
Doty, Donald	Koeze, Mrs.	Stafseth
Durst	Kuhn	Tubbs
Elliott, A. G.	Lawrence	Turner
Farnsworth	Leibrand	Upton
Figy	Leppien	Van Dusen
Finch	Martin	Wanger
Gadola	McAllister	White
Goebel	McCauley	Wood
Gover	Nisbet	Yeager

SECRETARY CHASE: On the amendment to strike out the senate and insert the house of representatives for the advice and consent, the yeas are 44; the nays are 72.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Marshall and Miss Hart offer the following amendments to be considered together, all applying to the same subject:

1. Amend page 3, line 17, after "senate" by inserting "and house"; and in line 21, after "senate" by inserting "and house"; and on page 4, line 27, after "senate" by inserting "and house"; and on line 29, after "senate" by inserting "and house"; and on page 5, line 2, after "senate" by inserting "and house"; and in line 20, after "senate" by inserting "and house"; and in line 22, after "senate" by inserting "and house voting separately".

PRESIDENT NISBET: The question is on the amendments offered by Mr. Marshall and Miss Hart. The Chair recognizes Mr. Marshall.

MR. MARSHALL: I think the amendments are self explanatory, and it is obvious that to speak on these amendments is probably useless at this point, but I am in no position to withdraw it, so this merely requires advice and consent of both the senate and the house.

PRESIDENT NISBET: The question is on the amendment of Mr. Marshall and Miss Hart. Those in favor will say aye. Opposed will say no.

The amendment is not adopted. The next amendment, Mr. Chase.

SECRETARY CHASE: Messrs. Durst, Hatch and Brake offer the following amendment:

1. Amend page 3, line 23, after "law.", by striking out the balance of the paragraph and inserting a new paragraph to read as follows:

"No member of any board or commission created or enlarged after adoption of this constitution shall have a term longer than 4 years. The terms of members of existing boards and commissions, other than as provided in this constitution, which are greater than 4 years shall not be further extended.".

PRESIDENT NISBET: The Chair recognizes Mr. Durst.

MR. DURST: Mr. President and members of the convention, this is the part of the amendment which was offered before which formerly was called the Durst-Hatch amendment. It was debated probably at length some 2 hours, at least, and we have added another distinguished cosponsor.

The part of the amendment that has been deleted is the part that refers to the governor's approval of the chief executive officer of elective boards, and all this does is limit the term of commissioners to 4 years so there would be a maximum term of newly created commissions, and strikes the provisions which, in the committee proposal, gave the governor the approval of the chief executive officer of any board or commission. I think it has been discussed at length, and everyone should, by this time, understand what it concerns. I would, at this time, like to yield to cosponsor Mr. Brake.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen, I understand that we were remiss or at least careless when this matter was before the committee of the whole, in that we did not indicate with sufficient clarity that this is a part of what we are now calling, I believe, the accommodation, the compromise agreement that has been talked about rather frequently on the floor, and that some of the delegates did not understand, as they voted, that this was part of that agreement. It is, and a very important part of that agreement. I think that I may add this: in my judgment, it is not only a part of an agreement, but it is very definitely the right policy to follow from the viewpoint of service to the people of this state.

I spoke to the merits of it when it was in the committee of the whole, and I shall not go over that ground again, but there is something I wish to add because of something I have learned since then. I gave as an illustration at that time, the department of conservation. Since that time, I have had the opportunity to talk at length with the lady who was secretary to the director of the department of conservation just before the reorganization and for several years after the reorganization. You will recall that the reorganization changed the setup from a director appointed by the governor and serving at his pleasure to the long, staggered term commission, the commission picking the director. The story she told me about the political pressure from the governor's office, and from prominent politicians of the party and officeholders outside of the governor's office would make your hair stand on end: pressure to fire experienced and competent employees and replace them by political workers; pressure to modify the policy of the commission in accordance with the wishes of politicians, including politicians in office; and little tantalizing things that perhaps we wouldn't think of. Maybe we think they are just minor but you don't know, unless you have been in the field, some of the things that they will do to you or try to do to you in positions of this kind.

You wouldn't know, for instance, I am sure, what a nice little package of enemies you make by a very simple little thing which stopped, and stopped for 12 years, the practice of carrying the IOUs of prominent people, many of them in public office, in the cash box of the state treasury. That kicked up an awful dust.

In the conservation department, you know that from time to time the conservation officers confiscate guns and other equipment of people found violating the game laws. They regularly sell that equipment. But in those early days, politicians wanted to continue the habit of getting those guns for nothing, not at a sale, and there was plenty of pressure to keep that up.

A little thing like this, a very considerable group of political brass coming to the director and saying, "We want" — not "May we please have" — "We want enough pheasants from the game farm so that we can stage a dinner." Fortunately, the director says, "I won't do it," and he didn't do it, and he didn't lose his job, although that was threatened.

That is the kind of thing that we want to get away from, certainly. And all the experience we have had in Michigan down through these years indicates that the chance of getting away from that kind of thing is better with the commission setup than it is with the direct appointment by the governor and that is what this amendment is all about.

PRESIDENT NISBET: The Chair recognizes Mr. Madar.

MR. MADAR: First, Mr. President, I want to be sure that we stick to Justice Dethmers' admonition that everything be plain, simple, understandable, and so I would like to first ask a question of Mr. Durst, and ask whether this does mean that no member shall hold office for more than 4 years at a time?

PRESIDENT NISBET: Mr. Durst.

MR. DURST: Mr. Madar, Mr. President, what this means is that commissions which presently exist either in the constitu-

but as all other commissions are, they will be prosecuting attorney and jury as well. How much more necessary, then, would it be to have such a provision attached to the constitutional provision for this commission?

I notice that among the proponents of the substitute we adopted today is the chairman of the committee on legislative organization, and I call his attention to and remind all the other delegates of the fact that in Committee Proposal 79, on page 2, lines 3 through 9, we provided extensive language with respect to the members of the commission not being eligible for election to the legislature until 2 years shall have elapsed after the apportionment in which they have participated. This area is not nearly as sensitive as the issues with which this commission deals, and yet we provided a similar limitation there.

I would further bring to the attention of the convention, Mr. President, the fact which has not been discussed but which should be considered and that is this: that unless such a limitation is put into the constitution, it cannot later be added by an act of the legislature.

With commissions in the area of civil rights or any other area, which commissions are created by the legislature, the legislature always has the power to add such a provision in case it was felt that the commission or any members thereof might be using their power for ends other than the ends of justice in the individual case. However, in the constitution we cannot, except by constitutional amendment, put such a limitation on this commission. Therefore, I earnestly ask you to affirm the action which, by fair majority, you took previously on this issue, to adopt this amendment as a safeguard against the political temptations which are admittedly so powerful and so prevalent in this area. This amendment would in no way weaken the power or the functions of the commission and it will add, I believe, public confidence in the work of the commission, insofar as words can do so.

We know that politics will not be kept out of anything in our lives in which people are interested and, of course, that applies to this, but there are occasions when words can help to keep politics out of an area where politics should not enter. These are such words. I urge you to vote in favor of this amendment for the reasons which I have given.

PRESIDENT NISBET: The question is on the amendment of Mr. Wanger.

MR. WANGER: I ask for the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded?

MR. MARTIN: Mr. President, the subject of the amendment has already been rejected once. I urge you to vote no on the amendment.

PRESIDENT NISBET: Not a sufficient number. Those in favor will say aye. Those opposed will say no.

The amendment is not adopted. Any further amendments?

SECRETARY CHASE: None, Mr. President.

PRESIDENT NISBET: **Committee Proposal 71,** as amended, is referred to the committee on style and drafting.

Following is Committee Proposal 71 as amended and referred to the committee on style and drafting:

The committee recommends that the following be included in the constitution:

Sec. a. The governor, lieutenant governor, secretary of state, and attorney general shall be elected at the general biennial election in 1964 and in each alternate even numbered year beginning in 1966. They shall, after 1966, serve for terms of 4 years beginning at 12:00 o'clock noon on the first day of January next succeeding their election.

The lieutenant governor, secretary of state and attorney general shall be nominated by party convention in a manner provided by law. In the general election the votes cast for a candidate for governor shall be considered as cast also for the candidate for lieutenant governor running jointly with him. The candidate whose name appears on the ballot jointly with that of the successful candidate for governor shall be elected lieutenant governor.

Sec. b. The lieutenant governor shall be president of the senate, but shall have no vote except in case of equal division. He shall perform such additional duties as may be delegated to him by the governor.

All executive and administrative offices, agencies and instrumentalities of the state government and their respective functions, powers and duties, except for the offices of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments, so as to group them as far as practicable according to major purposes, but at no time shall an examining or licensing board be composed of or governed by a majority of members of a competitive profession. Temporary commissions or agencies for special purposes and with a life of no more than 2 years may be established by law and need not be allocated within a principal department.

The allocation of departments by law pursuant to this section shall be completed within 2 years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make such allocation.

Subsequent to such allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders. The legislature shall have 60 days of a regular session, or a full session if of shorter duration, to disapprove these executive orders. Unless disapproved in both houses by a resolution concurred in by a majority of the members elect of each house, these orders shall become effective at a date thereafter to be designated by the governor.

The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer, and an attorney general. When a single executive, other than an elective official, is the head of a principal department, he shall be nominated and, by and with the advice and consent of the senate, appointed by the governor and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, the members thereof, unless elected or appointed as otherwise provided in this constitution, shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. The term of office and removal of such members shall be as prescribed in this constitution or by law.

No member of any board or commission created or enlarged after adoption of this constitution shall have a term longer than 4 years. The terms of members of existing boards and commissions, other than as provided in this constitution, which are greater than 4 years shall not be further extended.

Sec. c. Single executives heading principal departments and the chief executive officers of principal departments headed by boards or commissions shall keep their offices at the seat of government, except as otherwise provided by law, superintend them in person and perform such duties as may be prescribed by law.

Sec. d. Each principal department shall be under the supervision of the governor, unless otherwise provided by the constitution. The governor shall take care that the laws be faithfully executed; shall transact all necessary business with the officers of government; and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may, by appropriate court action or proceeding brought in the name of the state, enforce compliance with any constitutional or legislative mandate, or restrain violations of any constitutional or legislative power, duty, or right by any officer, department, or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize any action or proceeding against the legislature.

Sec. e. When the senate is not in session and a vacancy occurs in any office, appointment to which requires advice and consent of the senate, the governor shall fill the same by appointment. Such an interim appointment may be disapproved by the senate as with other appointments requiring such advice and consent. A person so appointed shall not be eligible for another interim appointment to such office if the appointment shall have been disapproved by the senate.

Sec. f. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an officer, other than a judicial officer, until he shall be acquitted or until after the election and qualification of a successor.

Sec. g. The governor shall have power and it shall be his duty, to examine into the condition and administration of any public office and the acts of any public officer, elective or appointive; to remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and report the causes of such removal or suspension to the legislature if in session or otherwise at its next session.

Appointment by and with the advice and consent of the senate when used in this constitution or in statutes in effect or hereafter enacted shall mean appointment subject to disapproval by a majority vote of the members elect of the senate if such action is taken within 60 legislative days after the date of such appointment. If not disapproved within such period of time the appointment shall stand confirmed.

No provision of this constitution or of law or executive order authorized herein shall shorten the term of any person elected to state office at a statewide election in or prior to November, 1962. In the event the duties of any of such officers shall not have been incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated.

Sec. h. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as shall be prescribed by law.

The state highway commission shall consist of 4 members, not more than 2 of whom shall be members of the same political party, appointed by the governor with the advice and consent of the senate for 4 year terms. No 2 members shall have conterminous terms.

The state highway commission shall appoint a state highway director, who shall be a competent highway engineer and administrator. He shall be the chief executive of the state highway department and shall be responsible for the execution of policy of the state highway commission.

Sec. i. There is hereby created a civil rights commission which shall consist of 8 persons, not more than 4 of whom shall be members of the same political party, who shall be appointed by the governor, with the advice and consent of the senate, for 4 year terms not more than 2 of which shall expire in the same year. It shall be the duty of the commission, in a manner which may be prescribed by law, to investigate alleged discrimination against any person because of race, religion, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have the power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have such other powers as may be provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

PRESIDENT NISBET (continuing): A few announcements.

SECRETARY CHASE: Mr. Danhof requests a short meeting of the committee on judicial branch directly after this morning's session in room B.

I have the following requests for leave: Mr. Douglas requests to be excused from the afternoon session; Mrs. Cushman requests to be excused from most of the afternoon session to keep a doctor's appointment; Mr. Suzore wishes to be excused from the session of Monday and the session of Tuesday morning; and Dr. Nord wishes to be excused from the session of next Monday because of a business commitment.

PRESIDENT NISBET: Without objection, the excuses are granted. Mr. White.

MR. WHITE: Mr. President, I move this convention recess until 1:30 this afternoon.

PRESIDENT NISBET: The question is on the motion of Mr. White to recess. All those in favor will say aye. Opposed, no.

The motion prevails. We are recessed until 1:30.

[Whereupon, at 12:00 o'clock noon, the convention recessed; and, at 1:30 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, I move that the convention resolve itself into committee of the whole for the purpose of considering matters on **general orders.**

PRESIDENT NISBET: The question is on the motion of Mr. Martin. Those in favor will say aye. Opposed, no.

The motion prevails. Mr. Martin.

[Whereupon, Mr. Martin assumed the Chair to preside as chairman of the **committee of the whole.**]

CHAIRMAN MARTIN: The committee will be in order. The secretary will read.

SECRETARY CHASE: Item 1, from the committee on declaration of rights, suffrage and elections, by Mr. Pollock, chairman, **Committee Proposal 45,** A proposal to guarantee the right of disposition to the owner of real property. Amends article II by adding a new section.

For text of Committee Proposal 45 and the reasons submitted in support thereof, see below, page 2272.

CHAIRMAN MARTIN: Professor Pollock.

MR. POLLOCK: Mr. Chairman, due to the absence of the vice chairman, Harold Stevens, may I ask that this pass until Monday?

CHAIRMAN MARTIN: Without objection, it will be passed. Committee Proposal 45 is passed for the day. Mr. Downs.

MR. DOWNS: Mr. Chairman, just a parliamentary inquiry: I would just like us to be consistent. If we pass because one delegate is not here, I want to ask a ruling from the

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 72 of that committee, reporting back to the convention **Committee Proposal 71,** A proposal to provide for the election, term and duties of state officers; allocation of departments, administrative reorganization, appointment and removal of department heads, supervision of departments, appointments to fill vacancies, provisional appointments, and removal or suspension from office by the governor;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 71 as reported by the committee on style and drafting, see below under date of April 24.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 75 of that committee, reporting back to the convention **Committee Proposal 72,** A proposal to provide for compensation of acting governor;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 72 as reported by the committee on style and drafting, see below under date of April 24.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 76 of that committee, reporting back to the convention **Committee Proposal 74,** A proposal to provide by law for the administration of claims against the state, escheats and escheated property, and the investment of state funds;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 74 as reported by the committee on style and drafting, see below under date of April 24.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 77 of that committee, reporting back to the convention **Committee Proposal 75,** A proposal to provide for compensation of state officers;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 75 as reported by the committee on style and drafting, see below under date of April 24.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 78 of that committee, reporting back to the convention **Committee Proposal 76,** A proposal pertaining to the passage of permissive legislation to allow civil divisions of the state to establish local civil service systems and to receive assistance from the state civil service system;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 76 as reported by the committee on style and drafting, see below under date of April 25.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 79 of that committee, reporting back to the convention **Committee Proposal 77,** A proposal to provide a suitable residence for the governor and to authorize an allowance for maintenance;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 77 as reported by the committee on style and drafting, see below under date of April 24.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 80 of that committee, reporting back to the convention **Committee Proposal 78,** A proposal to provide for the office of legislative auditor general;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 78 as reported by the committee on style and drafting, see below under date of April 24.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

SECRETARY CHASE: That is all of the standing committee reports, Mr. President.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: It is always a marvel to me how the human body and brain can rebound so rapidly. When I went home last night it made me think of the fellow playing golf who had had a rather bad day. He was hooking or he was slicing, and finally on the thirteenth hole he missed his putt. He broke the putter over his knee, threw the ball into the lake and sat down on the green rather frustrated, saying, "I've got to give it up, I've got to give it up," and the caddy said, "Give up what, golf?" The fellow says, "No, the ministry." (laughter)

Before anything else happens here I wish you a happy Easter when we leave here, if we do. Today we have taxation. We hope we can get it through early in time for you all to get home, because I know you want to, but I am sure you realize we must keep on schedule. We have asked style and drafting now to do 2 weeks work in 4 days. In talking to Mr. Brake, I know his committee is in good shape today, and I hope we will keep our debating sharp and intensify our work to do the best job we can.

The Chair recognizes Mr. Brake on second reading.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, I wish to move for a change in the order in which the proposals from finance and taxation will be presented; namely, that we start with Committee Proposal 6, then 23, then 56, then 38, then 39, and otherwise follow the order that is already on your calendar. I make this motion for one reason, and for one reason only, and it is connected with what the president just said. Tomorrow is Good Friday. I understand from information here and there around the convention that there will be delegates leaving possibly before we get through. These are the 3 issues most likely to be controversial, and my purpose in making the motion is that we handle those while a maximum number of delegates are present. I have no other motive whatsoever in asking for the change in order. These cover the 15 mill limitation, the weight and gas state taxes and antidiversion, and the sales tax, and I want to get those off, if it's possible, before noon, while everyone is present.

PRESIDENT NISBET: The question is on the motion of Mr. Brake.

MR. DURST: Mr. Chairman, could Mr. Brake give us those again and give us the number that appears on the second reading calendar, rather than the committee proposal number?

MR. BRAKE: The numbers on the calendar, those are the numbers that I gave you. We start with Committee Proposal 6 and 23 as the calendar now is; then 56, that is the 15 mill limitation; then 38, that is the highway money; then 39, the sales tax.

of this state. The administrator shall perform administrative duties assigned by the court.

Sec. c. The supreme court shall have general superintending control over all courts; power to issue, hear, and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.

Sec. d. The supreme court shall by general rules establish, modify, amend and simplify the practice and procedure in all courts of this state. The distinctions between law and equity proceedings shall, as far as practicable, be abolished. The office of master in chancery is prohibited.

Sec. e. Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent.

Sec. f. The supreme court may appoint, may remove, and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of the funds appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

PRESIDENT NISBET (continuing): Mr. Binkowski.

MR. BINKOWSKI: Mr. President, may I ask a question of Mr. Danhof so he can clarify the record regarding a proposal? Mr. Danhof, I believe you and several members of the convention have received letters from a judge of the common pleas court of Detroit with respect to a possible increase of their salaries. We know that the common pleas court in Detroit is a statutory court and no mention was made of it, although the proposed constitution specifically mentions the justices of the supreme court, judges of the court of appeals, circuit court judges, and probate judges. I wonder if, for the record, this can be clarified.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. Binkowski, in answer to your question, section g of Committee Proposal 96 covers the constitutional courts. If you will recall, during the debate on the miscellaneous section we removed a prohibition against the increase of salary of public officers. Therefore, the common pleas court, the recorders court and municipal court judges who previously were barred because of a general prohibition within the constitution, being statutory courts, there is nothing now to prohibit the legislature from enacting the identical provision for those statutory courts that we have enacted for the constitutional courts. I see no prohibition against allowing for the increase of salaries during the term of the judges of these statutory courts.

PRESIDENT NISBET: Announcements.

SECRETARY CHASE: All delegates are asked to check their mailboxes before they go to lunch.

The committee on style and drafting will meet in room G during the noon recess. Mr. Cudlip, chairman.

The committee on emerging problems will have a short meeting — emphasis "short meeting" — this noon in room H immediately upon taking the recess.

The committee on declaration of rights, suffrage and elections will meet in room F today at 8:00 o'clock p.m.

The committee on legislative powers will meet in room H Thursday at 8:00 o'clock a.m. T. Jefferson Hoxie, chairman.

PRESIDENT NISBET: The Chair recognizes Mr. Bledsoe.

MR. BLEDSOE: Mr. President, I move that the convention recess until 1:30.

PRESIDENT NISBET: The question is on the motion of Mr. Bledsoe. Those in favor will say aye. Opposed, nay.

We are recessed until 1:30 o'clock.

[Whereupon, at 11:40 o'clock a.m., the convention recessed; and, at 1:30 o'clock p.m., reconvened.]

The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

We have the following requests for leave: Mr. William Hanna asks to be excused from the first part of the afternoon session today; and Mr. Garry Brown requests to be excused from this afternoon's session and the sessions of Wednesday, Thursday and Friday, April 25, 26 and 27, due to the trial of a lawsuit previously adjourned to these dates at a time when it appeared that the convention would adjourn by April 15.

PRESIDENT NISBET: Without objection, the requests are granted.

Second reading on executive branch proposals. The secretary will read.

SECRETARY CHASE: Item 1 on the calendar, **Committee Proposal 71** —

MR. MARTIN: Mr. President.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, several delegates have requested a little additional time to prepare some material on this on both sides of the house. I'd like to move at this time that Committee Proposal 71 be placed right after item 10 on our calendar, which will bring it up just a little later.

PRESIDENT NISBET: The question is on the motion of Mr. Martin. Those in favor will say aye. Opposed, no.

The motion prevails. The secretary will read the next proposal.

SECRETARY CHASE: Item 2 on the calendar, **Committee Proposal 2,** A proposal to provide the executive power be vested in the governor. Amends article VI, section 2.

Following is Committee Proposal 2 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 336.):

Sec. a. The executive power is vested in the governor.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: The language of the section has been unchanged by the style and drafting committee, Mr. President, and it is exactly in the form which it was when it left the floor. We have nothing to add to that.

PRESIDENT NISBET: The question is on the adoption of Committee Proposal 2. Any amendments?

SECRETARY CHASE: None.

PRESIDENT NISBET: This is a record roll call vote. Those in favor of approval of Committee Proposal 2 will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—112

Allen	Garvin	Perlich
Anspach	Goebel	Perras
Austin	Gover	Plank
Baginski	Gust	Pollock
Balcer	Habermehl	Powell
Barthwell	Hannah, J. A.	Prettie
Batchelor	Hart, Miss	Pugsley
Beaman	Haskill	Radka
Bentley	Hatch	Rajkovich
Blandford	Heideman	Richards, J. B.
Bonisteel	Higgs	Richards, L. W.
Bradley	Hodges	Romney
Brake	Howes	Rood
Buback	Hubbs	Rush
Butler, Mrs.	Hutchinson	Sablich
Cudlip	Iverson	Shackleton
Cushman, Mrs.	Jones	Sharpe
Danhof	Judd, Mrs.	Sleder
Dehnke	Karn	Snyder
Dell	Kelsey	Spitler
DeVries	Kirk, S.	Stafseth
Donnelly, Miss	Koeze, Mrs.	Staiger
Doty, Dean	Krolikowski	Stamm

Cudlip	Knirk, B.	Sleder
Danhof	Koeze, Mrs.	Snyder
Dehnke	Krolikowski	Spitler
Dell	Kuhn	Stafseth
DeVries	Lawrence	Staiger
Donnelly, Miss	Leibrand	Stamm
Doty, Dean	Leppien	Stevens
Doty, Donald	Lesinski	Suzore
Douglas	Mahinske	Thomson
Downs	Marshall	Tubbs
Durst	Martin	Turner
Elliott, A. G.	McAllister	Tweedie
Elliott, Mrs. Daisy	McGowan, Miss	Upton
Erickson	McLogan	Van Dusen
Everett	Millard	Walker
Farnsworth	Mosier	Wanger
Faxon	Murphy	White
Figy	Nisbet	Wilkowski
Finch	Norris	Wood
Follo	Ostrow	Woolfenden
Ford	Page	Yeager
Gadola	Perlich	Young
Garvin	Perras	Youngblood
Goebel	Plank	

Nays—5

Binkowski	Hodges	Kelsey
Cushman, Mrs.	Jones	

SECRETARY CHASE: On the passage of Committee Proposal 17, the yeas are 116; the nays, 5.

PRESIDENT NISBET: **Committee Proposal 17,** as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 17 as amended and rereferred to the committee on style and drafting:

Sec. a. No person shall be eligible for the office of governor or lieutenant governor who shall not have attained the age of 30 years and who shall have not been 4 years next preceding his election a registered elector in this state.

The secretary will read the next proposal.

SECRETARY CHASE: Item 1 on the calendar, which was to follow item 10, **Committee Proposal 71,** A proposal to provide for the election, term and duties of state officers; allocation of departments, administrative reorganization, appointment and removal of department heads, supervision of departments, appointments to fill vacancies, provisional appointments, and removal or suspension from office by the governor. Amends or replaces article VI, sections 1, 3, 10 and 19, and article IX, sections 5 and 7.

MR. MARTIN: Mr. President.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: If it is in order, I move that the matter be considered read.

PRESIDENT NISBET: Is there objection? If not, it will be considered read.

Following is Committee Proposal 71 as reported by the committee on style and drafting and considered read. (For full text as referred to said committee, see above, page 2211.):

Sec. a. The governor, lieutenant governor, secretary of state[,] and attorney general shall be elected at the general [biennial] election [in 1964 and] in each alternate even numbered year [beginning in 1966]. They shall[, after 1966,] serve for terms of 4 years beginning at 12:00 o'clock noon on the first day of January next succeeding their election.

NOTWITHSTANDING ANY OTHER PROVISION IN THIS CONSTITUTION, THE GOVERNOR, LIEUTENANT GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL SHALL BE ELECTED AT THE GENERAL ELECTION IN 1964 TO SERVE FOR 2 YEAR TERMS BEGINNING ON THE FIRST DAY OF JANUARY NEXT SUCCEEDING THEIR ELECTION. THE FIRST 4 YEAR ELECTION UNDER THIS CONSTITUTION SHALL BE HELD AT THE GENERAL ELECTION IN 1966.*

The lieutenant governor, secretary of state and attorney general shall be nominated by party conventionS in a manner [provided] PRESCRIBED by law. In the general election ONE VOTE SHALL BE CAST JOINTLY FOR THE CANDIDATES [the votes cast for a candidate] for governor AND LIEUTENANT GOVERNOR NOMINATED BY THE SAME PARTY. [shall be considered as cast also for the candidate for lieutenant governor running jointly with him. The candidate whose name appears on the ballot jointly with that of the successful candidate for governor shall be elected lieutenant governor.]

Sec. b. The lieutenant governor shall be president of the senate, but shall have no vote except in case of equal division. He shall perform [such] additional duties as [may be delegated to] REQUESTED OF him by the governor.

All executive and administrative offices, agencies and instrumentalities of the state government and their respective functions, powers and duties, except for the office[s] of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments[,]. [so as to] THEY SHALL BE [group] GROUPED [them] as far as practicable according to major purposes[,]. [but] At no time shall an examining or licensing board OF A PROFESSION be composed of [or governed by] LESS THAN a majority of members of [a] THAT [competitive] profession. Temporary commissions or agencies for special purposes [and] with a life of no more than 2 years may be established by law and need not be allocated within a principal department.

The INITIAL allocation of departments by law pursuant to this section shall be completed within [2] TWO years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make [such] THE INITIAL allocation.*

Subsequent to THE INITIAL [such] allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders. The legislature shall have 60 days of a regular session, or a full session if of shorter duration, to disapprove these executive orders. Unless disapproved in both houses by a resolution concurred in by a majority of the members [elect of] ELECTED TO AND SERVING IN each house, these orders shall become effective at a date thereafter to be designated by the governor.

The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer[,] and an attorney general. When a single executive[,] other than an elective official, is the head of a principal department, he shall be nominated and, by and with the advice and consent of the senate, appointed by the governor and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, the members thereof, unless elected or appointed as otherwise provided in this constitution, shall be nominated and, by and with the advice and consent of the senate, appointed by the governor. The term of office and PROCEDURE FOR removal of such members shall be as prescribed in this constitution or by law. TERMS OF OFFICE [No member] of any board or com-

*This paragraph proposed to be moved to schedule and temporary provisions.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

mission created or enlarged after adoption of this constitution shall [have a term longer than] NOT EXCEED 4 years EXCEPT AS OTHERWISE AUTHORIZED IN THIS CONSTITUTION. The terms of [members] OFFICE of existing boards and commissions, [other than as provided in this constitution,] which are greater than 4 years shall not be further extended EXCEPT AS PROVIDED IN THIS CONSTITUTION.

Sec. c. Single executives heading principal departments and the chief executive officers of principal departments headed by boards or commissions shall keep their offices at the seat of government[,] except as otherwise provided by law, superintend them in person and perform [such] duties [as may be] prescribed by law.

Sec. d. Each principal department shall be under the supervision of the governor, unless otherwise provided by [the] THIS constitution. The governor shall take care that the laws be faithfully executed[;]. HE shall transact all necessary business with the officers of government[;] and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may[, by appropriate] INITIATE court [action or proceeding] PROCEEDINGS [brought] in the name of the state[,] TO enforce compliance with any constitutional or legislative mandate, or TO restrain violations of any constitutional or legislative power, duty, or right by any officer, department, or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize [any action or proceeding] COURT PROCEEDINGS against the legislature.

Sec. e. When the senate is not in session, [and] THE GOVERNOR SHALL FILL a vacancy [occurs] in any office, appointment to which requires advice and consent of the senate[, the governor shall fill the same] by appointment[.] WHICH [such an interim appointment] may be disapproved by the senate [as with] IN THE MANNER PROVIDED FOR other appointments requiring such advice and consent. A person WHO HAS BEEN DISAPPROVED BY THE SENATE [so appointed] shall not be eligible for another interim appointment to [such] THE SAME office [if the appointment shall have been disapproved by the senate].

Sec. f. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an APPOINTED OR ELECTED officer, other than a judicial officer, until he [shall be] IS acquitted or, IF CONVICTED, UNTIL THE VACANCY IS FILLED IN THE MANNER PRESCRIBED BY LAW OR THIS CONSTITUTION FOR SUCH OFFICE [until after the election and qualification of a successor].

Sec. g. The governor shall have power and it shall be his duty, to [examine] INQUIRE into the condition and administration of any public office and the acts of any public officer, elective or appointive[;]. HE MAY [to] remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and report the causes of such removal or suspension to the legislature if in session or otherwise at its next session.

Appointment by and with the advice and consent of the senate when used in this constitution or in statutes in effect or hereafter enacted [shall] meanS appointment subject to disapproval by a majority vote of the members [elect of] ELECTED TO AND SERVING IN the senate if such action is taken within 60 legislative days after the date of such appointment. If THE APPOINTMENT IS not disapproved within such period of time the appointment shall stand confirmed.

No provision of this constitution, [or] of law or OF executive order authorized BY THIS CONSTITUTION [herein] shall shorten the term of any person elected to state office at a statewide election in or prior to November, 1962. In the event the duties of any of such officers shall not have been incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated.*

Sec. h. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as shall be prescribed by law.

The state highway commission shall consist of 4 members, not more than 2 of whom shall be members of the same political party[,]. THEY SHALL BE appointed by the governor with the advice and consent of the senate for 4 year terms[.], no 2 OF WHICH [members] shall EXPIRE [have conterminous terms] IN THE SAME YEAR.

The state highway commission shall appoint a state highway director, who shall be a competent highway engineer and administrator. He shall be the chief executive of the state highway department and shall be responsible for [the execution] EXECUTING THE [of] policy of the state highway commission.

Sec. i. There is hereby ESTABLISHED [created] a civil rights commission which shall consist of 8 persons, not more than 4 of whom shall be members of the same political party, who shall be appointed by the governor, with the advice and consent of the senate, for 4 year terms not more than 2 of which shall expire in the same year. It shall be the duty of the commission[,] in a manner which may be prescribed by law[,] to investigate alleged discrimination against any person because of race, religion, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have the power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have [such] other powers [as may be] provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

MR. MARTIN: Mr. President, the committee on style and drafting has considered this proposal at some length and they have made a number of changes in it. The committee is satisfied with those changes and we recommend the adoption of the proposal as revised by style and drafting.

PRESIDENT NISBET: Mr. Chase, is there an amendment?

SECRETARY CHASE: Mr. Hubbs offers the following amendment to Committee Proposal 71:

1. Amend page 1, at the beginning of line 12, [section a, paragraph 3] by inserting "The governor and"; so the language will read:

> The governor and the lieutenant governor, secretary of state and attorney general shall be nominated by party conventions in a manner prescribed by law.

PRESIDENT NISBET: The Chair recognizes Mr. Hubbs.

MR. HUBBS: Mr. President and members of the convention, I won't take very much of your time because I've been talking to a good many of you and I find that there seems to be a small amount of support for this proposition. I would like to make a point, however, because the chief argument against it seems to be that the public isn't ready for this

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*This paragraph proposed to be moved to schedule and temporary provisions.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Batchelor	Haskill	Richards, J. B.
Beaman	Hatch	Romney
Bentley	Heideman	Rush
Bledsoe	Higgs	Seyferth
Bonisteel	Howes	Shackleton
Brake	Hubbs	Shaffer
Butler, Mrs.	Iverson	Sharpe
Conklin, Mrs.	Judd, Mrs.	Sleder
Cudlip	Karn	Spitler
Danhof	Knirk, B.	Staiger
Dehnke	Koeze, Mrs.	Sterrett
Dell	Lawrence	Stevens
Donnelly, Miss	Leppien	Thomson
Doty, Dean	Martin	Tubbs
Elliott, A. G.	McLogan	Turner
Everett	Millard	Tweedie
Farnsworth	Mosier	Upton
Figy	Nisbet	Van Dusen
Finch	Page	Wanger
Gadola	Plank	White
Goebel	Powell	Woolfenden

SECRETARY CHASE: On the amendment offered by Mr. Wood and others, the yeas are 53; the nays are 69.

PRESIDENT NISBET: The amendment is not adopted. Mr. Marshall.

MR. MARSHALL: Mr. President, I would like to ask of the Chair if any consideration was given to the question that I raised yesterday dealing with the interpretation of rule 58, where, on second reading, we are going contrary to the process in the legislature where we pass some of this garbage and pass it on to third reading by a simple majority of those voting. Then when we come to third reading we will have to have 73 votes in order to remove it. I think it is unfair and I asked for a ruling yesterday and asked that it be given consideration.

It seems to me that rule 58 says that no section "shall be declared passed unless a majority of all the delegates elected to the convention shall have voted in favor of the passage of the same." And I submit that if we are to continue to pass items on second reading by a simple majority of those voting, then when we come to third reading and it takes 73 to remove it, then we are not complying, I don't believe, with rule 58, and I would like an answer to this.

PRESIDENT NISBET: Mr. Chase will explain it.

SECRETARY CHASE: On the adoption of this last amendment the yeas were 53; the nays were 69. The secretary would suggest that if the vote had been reversed and the yeas had been 69 and the nays 53, the amendment would have been adopted.

MR. MARSHALL: I realize that, Mr. Secretary, but the question that I raise — and I raised it yesterday — is this: we are trying a lot of what I refer to as — we're picking up some cats and dogs along the way and we're throwing them into some good proposals and we are being compelled to vote on them and pass them on second reading by a simple majority of those voting. If we only had 75 delegates in the convention you could pass it by a majority of those 75 voting and it would go on to third reading. And when we come to third reading it will require, as I understand your ruling, 73 votes then in order to remove it. This is the thing that is troubling me and I think it is troubling a good many of the other delegates. Now, how did you arrive at that, if I may ask this question, when the rule says:

> On the passage of every proposal, section, article and any complete revision of or amendment to the constitution, the vote shall be taken by yeas and nays, and entered on the journal, and no proposal, section, article or any such amendment or complete revision shall be declared passed unless a majority of all the delegates elected to the convention shall have voted in favor of the passage of the same.

MR. IVERSON: Point of order, Mr. President.

PRESIDENT NISBET: Mr. Iverson.

MR. IVERSON: This amendment lost. I don't know what the argument is about. Let's get on with the business.

MR. MARSHALL: Delegate Iverson, for your benefit I will explain. I asked yesterday if the Chair would take into consideration an inquiry that I made on this particular rule and I was asking as a point of inquiry had the Chair done this, and if so, what the decision was. I think that you have to realize, Mr. Iverson, that when we pass something on second reading with a simple majority and then it becomes a part of the proposal and declared passed, you can't get it off on third reading by a simple majority.

MR. IVERSON: Mr. President, I submit this matter was passed on yesterday. We're just wasting time.

PRESIDENT NISBET: Mr. Marshall, the matter was discussed again and we came up with the same opinion that we did before which was printed in the journal of yesterday. The Chair knows of nothing else to say now. Mr. Chase.

SECRETARY CHASE: I wonder if Mr. Marshall realizes that on the vote on the adoption of an amendment to a proposal on second reading and on third reading, a majority of those voting on the amendment in either case will adopt it —

MR. MARSHALL: Yes, sir.

SECRETARY CHASE: — but the vote on the final passage of the proposal on either second or third reading takes 73 votes.

MR. MARSHALL: On the proposal itself it takes 73 votes?

SECRETARY CHASE: That's right.

PRESIDENT NISBET: The secretary will read the next amendment. Mr. Mahinske.

MR. MAHINSKE: Mr. President, I also have a similar inquiry here. You have noted that your interpretation of rule 58 is the same as it was before, but I offered a question yesterday with reference to section 4 of article XVII of the existing constitution for interpretation from the Chair. Have you decided on any interpretation as to this language, which is almost identical, or is this still in abeyance?

PRESIDENT NISBET: We have not, Mr. Mahinske.

MR. MAHINSKE: Thank you.

PRESIDENT NISBET: The secretary will read the next amendment.

SECRETARY CHASE: Mr. Hutchinson offers the following amendment to Committee Proposal 71:

1. Amend page 2, line 25, [section b, paragraph 4] after "disapproved in" by striking out "both houses by a resolution concurred in by a majority of the members elected to and serving in each house" and inserting "either house by a resolution concurred in by a majority of the members elected to and serving in that house"; so the language would then read:

> Unless disapproved in either house by a resolution concurred in by a majority of the members elected to and serving in that house, these orders shall become effective at a date thereafter to be designated by the governor.

PRESIDENT NISBET: The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, the effect of this amendment would be to permit either house of the legislature to veto the reorganization plans of the governor in line with the provisions in the congressional practice, where either house may have the same power with regard to the reorganization plans of the president. I feel that the convention went too far when it requires the legislature, both houses concurring by the same majority that it takes to pass laws, to exercise the veto power.

I think we're going a long way when we would provide that the governor can, in effect, make these laws and leave to either the house or the senate the veto power. This amendment would put us in line with the congressional practice and let either house exercise the veto power. But it would require a constitutional majority, not a simple majority but an absolute majority of the members elected and serving in either house.

PRESIDENT NISBET: Mr. Hatch.

MR. HATCH: Mr. President, I rise in support of Mr. Hutchinson's amendment. This amendment will give constitutional status to the present statute which authorizes executive reorganization. I think you will recall that in committee of the whole a minority of the executive branch committee, Mr. Bentley and several others, expressed their dissatisfication with requiring both houses to disapprove any reorganization plan. To me it just doesn't make sense to require disapproval

of both houses in a reorganization plan when, in order to provide funds and appropriate for any agency that might be created under a reorganization plan, both houses must concur in the appropriation. I urge the convention to support this amendment.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, this is precisely the same provision which was considered in committee of the whole, and it was fully debated there. The reasons pro and con were given. This would make it possible for one house to turn down a reorganization plan, and that is relatively easy to obtain. So it would mean, in effect, that very few reorganization plans would ever go through. This is the situation as it now is. Practically no reorganization plans have gone through and the specific reason for that is just that it's too easy to turn them down. We feel that if you're going to have a provision for executive reorganization, there ought to be some reasonable chance for survival of such plans. That's why the committee took the position that it did and why we hope that you will vote against this amendment and for the committee proposal.

PRESIDENT NISBET: Dr. Pollock.

MR. POLLOCK: Mr. President, as Mr. Martin, the chairman of the committee, has said, this was thoroughly discussed once before in committee of the whole and defeated. I think Mr. Hutchinson approaches this as he seems to approach a good many other matters: from the point of view of his legislative experience. We're not now legislators; we're convention delegates. We have to look at this from the point of view of the operation of the whole state government of Michigan. Experience shows that the system that Mr. Hutchinson has proposed does not work in Michigan. We've had just brief experience with it, but it does not work.

So far as the Washington experience is concerned, congress, too, has been very jealous of its powers and it's whittled away and whittled away at the reorganization law until now it's extremely difficult for the president to get through necessary reorganizations. I think what is true in Washington is even more true at the state level. And as I say, I think it pretty much depends on whether you think that reorganization matters can best be proposed by the governor or whether you have to wait for the legislature to do it. I hope you don't believe the latter, because the whole experience of administrative reorganization demonstrates very clearly that it's the negligence, the lack of action on the part of the legislature, and finally the veto by the legislature which has kept Michigan in the administrative mess it is now in. This was a key provision put in by the committee after careful deliberation and it was supported by the committee of the whole. I hope you will not accept the amendment.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Very briefly, as a member of the committee, I agree with the remarks made by the committee chairman and I urge the defeat of the amendment.

PRESIDENT NISBET: The question is on the adoption of the amendment offered by Mr. Hutchinson. Mr. Chase will read the amendment.

SECRETARY CHASE: Mr. Hutchinson's amendment:

[The amendment was again read by the secretary. For text, see above, page 2753.]

PRESIDENT NISBET: Those in favor of the Hutchinson amendment will say aye; opposed, no.

The amendment is not adopted. The next amendment.

SECRETARY CHASE: Messrs. Wood, Faxon and Erickson offer the following amendment:

1. Amend page 3, line 4, [section b, paragraph 5] after "treasurer" by inserting a comma and "a highway commissioner".

MR. WOOD: Mr. President.

PRESIDENT NISBET: Mr. Wood.

MR. WOOD: We'll withdraw that amendment at this time.

PRESIDENT NISBET: Without objection, the amendment is withdrawn.

SECRETARY CHASE: Messrs. Wood, Faxon and Erickson offer the following amendment:

1. Amend page 1, line 12, [section a, paragraph 3] after "secretary of state" by inserting a comma and "highway commissioner".

PRESIDENT NISBET: Mr. Wood.

MR. WOOD: I don't know where we got 2 of them. We'll withdraw both of them.

PRESIDENT NISBET: Without objection, the amendment is withdrawn. Any further amendments?

SECRETARY CHASE: That's the last of the amendments on the desk, Mr. President.

PRESIDENT NISBET: If not, the question is on the adoption of Committee Proposal 71, with the exclusion of section i. Those in favor of the adoption of Committee Proposal 71 will vote aye. Those opposed will vote nay. Mr. Downs.

MR. DOWNS: I wish to urge a no vote on 71. This proposal, with advice and consent, does not strengthen the hand of the governor.

PRESIDENT NISBET: Mr. Downs, the vote has been called. I'm sorry.

MR. MARSHALL: Point of inquiry. We are voting on the entire Committee Proposal 71 now?

PRESIDENT NISBET: Except for section i, which has become 71A, Mr. Marshall.

MR. MARSHALL: We are voting on the entire article. Does it take 73 votes to pass it?

PRESIDENT NISBET: That is correct.

MR. MARSHALL: Thank you.

PRESIDENT NISBET: The question is on Committee Proposal 71, excluding section i. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 79

Allen	Habermehl	Pugsley
Andrus, Miss	Hannah, J. A.	Radka
Anspach	Haskill	Rajkovich
Batchelor	Hatch	Richards, J. B.
Beaman	Heideman	Richards, L. W.
Bentley	Higgs	Romney
Bonisteel	Howes	Rush
Brake	Iverson	Seyferth
Butler, Mrs.	Judd, Mrs.	Shackleton
Conklin, Mrs.	Karn	Shaffer
Cudlip	Kirk, S.	Sharpe
Danhof	Koeze, Mrs.	Sleder
Dehnke	Kuhn	Spitler
Dell	Lawrence	Staiger
DeVries	Leibrand	Stamm
Donnelly, Miss	Leppien	Sterrett
Doty, Dean	Martin	Stevens
Doty, Donald	McLogan	Thomson
Durst	Millard	Tubbs
Elliott, A. G.	Mosier	Turner
Everett	Nisbet	Tweedie
Farnsworth	Page	Upton
Figy	Plank	Van Dusen
Gadola	Pollock	Wanger
Goebel	Powell	White
Gover	Prettie	Woolfenden
Gust		

Nays — 44

Austin	Ford	Norris
Balcer	Garvin	Ostrow
Barthwell	Hart, Miss	Perlich
Binkowski	Hatcher, Mrs.	Perras
Bledsoe	Hodges	Sablich
Boothby	Hood	Shanahan
Bradley	Hoxie	Snyder
Buback	Hubbs	Stafseth
Douglas	Hutchinson	Suzore
Downs	Jones	Walker
Elliott, Mrs. Daisy	Lesinski	Wilkowski
Erickson	Mahinske	Wood

Faxon	Marshall	Yeager
Finch	McAllister	Young
Follo	Murphy	

SECRETARY CHASE: On the passage of Committee Proposal 71, the yeas are 79; the nays are 44.

PRESIDENT NISBET: **Committee Proposal 71** is passed.

Following is explanation of vote submitted by Mr. Hubbs:

I have chosen to vote no on Committee Proposal 71 in order to express my disapproval of the convention's attitude toward nomination of the governor in party conventions. I do not feel that the convention gave sufficient attention to this point of view of the serious problems of candidate expense and taxpayer expense caused by the statewide primary election system. The strengthening of political parties and the wider choice of candidates that would result is a benefit to the people of this state that should have been given more careful consideration.

Following is explanation of vote submitted by Delegates Marshall, Jones, Young, Daisy Elliott, Buback, Barthwell, Austin, Douglas and Hart:

We voted no on Committee Proposal 71.

This proposal reduces the voter's right to elect his governmental officials. It also weakens the responsibility and authority of the governor.

The present system of electing a highway commissioner that has proven so successful in building roads for Michigan's citizens, is replaced with a hydraheaded monster, consisting of 4 commissioners selected by advice and consent of the senate. This system does not have the advantage of letting the people elect their highway commissioner, nor even the alleged advantage of having the governor appoint the highway commissioner direct. It dilutes responsibility and authority so that nobody is responsible when roads are not built, and the citizens have no place to turn when they feel the highway program is not run properly.

The present system of electing state ad board members is replaced with one that permits the governor to appoint the state treasurer, but this power for the governor is destroyed by requiring the advice and consent of a senate that does not represent people equally.

The governor's power to appoint heads of departments is vitiated by the requirement that these appointees receive advice and consent of the senate. A "sudden death" provision is established which requires the senate to accept or reject the appointee within 60 legislative days. The senate that does not represent people is then compelled to pass judgment upon the governor's appointees and thereby weakens his power.

This provision is not an improvement on the 1908 constitution, but is a definite step backwards because it weakens government. We have come to this convention hoping that we would strengthen the people's right to participate in government, and its responsible, executive branch. Instead, this proposal weakens the executive and weakens the people's voice in government. We, therefore, voted no on this proposal.

PRESIDENT NISBET (continuing): It is referred to the committee on style and drafting.

For Committee Proposal 71 (excluding section i) as rereferred to the committee on style and drafting, see above, page 2743.

We will now take up Committee Proposal 71A and Mr. Chase will read.

SECRETARY CHASE: **Committee Proposal 71A,** A proposal to provide for a civil rights commission.

Following is Committee Proposal 71A (section i of Committee Proposal 71) as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see section i of Committee Proposal 71 above, page 2211):

Sec. a. There is hereby ESTABLISHED [created] a civil rights commission which shall consist of 8 persons, not more than 4 of whom shall be members of the same political party, who shall be appointed by the governor, with the advice and consent of the senate, for 4 year terms not more than 2 of which shall expire in the same year. It shall be the duty of the commission[,] in a manner which may be prescribed by law[,] to investigate alleged discrimination against any person because of race, religion, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have the power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have [such] other powers [as may be] provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, this is almost exactly the proposal which left the committee of the whole with a change of one or two words which are not changes in substance. So the committee recommends the adoption of this proposal in its present form.

PRESIDENT NISBET: There are 7 amendments. The secretary will read.

SECRETARY CHASE: Mrs. Cushman offers the following amendment:

1. Amend page 1, line 7, [paragraph 1] after "year.", by striking out the balance of the line, all of lines 8 through 11 and through "discrimination.", in line 12, and inserting "It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person's enjoyment of civil rights guaranteed by this constitution or by law because of race, religion, color or national origin; to investigate alleged denials of such civil rights; and to secure the equal protection of the law so as to prevent denial of the enjoyment of civil rights and discrimination in the exercise of such rights.".

PRESIDENT NISBET: Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, the intent of my amendment is to make a more clear parallel between this language and the language of Committee Proposal 26, which is the declaration of rights section governing civil and political rights and providing for the equal protection of the laws. There were some changes and this actually is one of the versions that the committee on style and drafting did consider. It is the version that I thought was the best because it was most clearly parallel to Committee Proposal 26. It would seem to me that it was important to mention, for example, not only this discrimination but also the possibility of a denial of the enjoyment of civil and political rights, and I, therefore, put that in. Now, there is, of course, one distinction here and we mention in 26, "race, religion, sex or national origin." In here we've got "race, religion, color or national origin." I am quite happy, as a result of the study I have been doing and the help I've been getting from various people, to leave "sex" to one side. I think that whereas there is some discrimination, that it is far better handled on the basis of statute than it is in the constitution because of many other problems that you'd raise. And for that reason I kept to

Explanation—Matter within [ ] is stricken, matter in capitals is new.

PREAMBLE
I. DECLARATION OF RIGHTS
II. ELECTIONS
III. GENERAL GOVERNMENT
IV. LEGISLATIVE BRANCH
V. EXECUTIVE BRANCH
VI. JUDICIAL BRANCH
VII. LOCAL GOVERNMENT
VIII. EDUCATION
IX. FINANCE AND TAXATION
X. PROPERTY
XI. PUBLIC OFFICERS AND EMPLOYMENT
XII. AMENDMENT AND REVISION
SCHEDULE AND TEMPORARY PROVISIONS

PREAMBLE

We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

ARTICLE I
DECLARATION OF RIGHTS

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3.	Right of Assembly and Petition	15– 2
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Article I
Declaration of Rights

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of race, COLOR, religion, sex or national origin. The legislature shall implement this section by appropriate legislation. This SECTION shall not be construed to [prevent] PROHIBIT reasonable [classification] LEGISLATION for the protection of women.

Sec. 3. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances.

Sec. 4. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Sec. 5. Every person may freely speak, write, express[,] and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be [passed] ENACTED to restrain or abridge the liberty of speech or of the press.

Sec. 6. Every person has a right to keep and bear arms for the defense of himself and the state.

Sec. 7. The military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 8. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sec. 9. Neither slavery, nor involuntary servitude unless for the punishment of crime, shall

Explanation—Matter within [ ] is stricken, matter in capitals is new.

ever be tolerated in this state.

Sec. 10. No bill of attainder, ex post facto law or law impairing the obligation of contract shall be ENACTED [passed].

Sec. 11. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation. The provisions of this section shall not be construed to bar from evidence in any criminal proceeding[,] any narcotic drug, [any] firearm, bomb, explosive[,] or any other dangerous weapon, seized by A [any] peace officer outside the curtilage of any dwelling house in this state.

Sec. 12. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

Sec. 13. [Any] A suitor in any court of this state [shall have] HAS the right to prosecute or defend his suit, either in his own proper person or by an attorney.

Sec. 14. The right of trial by jury shall remain, but shall be [deemed to be] waived in all civil cases unless demanded by one of the parties in THE [such] manner [as shall be] prescribed by law. In all civil [actions in circuit courts] CASES TRIED BY 12 JURORS a verdict shall be received when 10 jurors [shall] agree.

Sec. 15. No person shall be subject for the same offense to be twice put in jeopardy. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

Sec. 16. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

Sec. 18. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sec. 19. In all prosecutions for libels the truth may be given in evidence to the jury; and, if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

Sec. 20. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 jurors in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; to have an appeal as a matter of right; and in courts of record, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

Sec. 21. No person shall be imprisoned for debt arising out of[,] or founded on contract, express or implied, except in cases of fraud or breach of trust.

Sec. 22. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of [2] TWO witnesses to the same overt act[,] or on confession in open court.

Sec. 23. The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE II
ELECTIONS

Sec.		Com. Proposal
1.	Qualifications	58a
2.	Legislature may exclude certain persons from voting	58b
3.	Presidential electors, residence	58c
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Article II
Elections

Sec. 1. Every citizen of the United States who has attained the age of 21 years, who has resided in this state [6] SIX months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

Sec. 2. The legislature may by law exclude persons from voting because of mental incompetence[,] or commitment to a jail or penal institution.

Sec. 3. For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than [6] SIX months and may waive residence requirements [of] FOR FORMER citizens of this state who have

removed [t]herefrom. The legislature [may provide the manner of voting by such persons but] shall not permit voting by any [such] person who meets the voting residence requirements of the state to which he has removed.

Sec. 4. The legislature shall enact laws to regulate the time, place [,] and manner of all nominations and elections, except as otherwise provided in this constitution or in the constitution and laws of the United States. The legislature shall enact laws to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of [persons who are] candidates for the same office WHO [and] have the same or similar surnames.

Sec. 5. Except for special elections to fill vacancies, OR AS OTHERWISE PROVIDED IN THIS CONSTITUTION, all elections for national, state, county and township offices shall be held on the first Tuesday after the first Monday in November in each even-numbered year[,] or on such other date as MEMBERS OF THE CONGRESS OF THE UNITED STATES ARE REGULARLY ELECTED [may hereafter be provided by the Constitution of the United States or by congress for election of members thereof].

Sec. 6. Whenever any question is REQUIRED TO BE submitted BY A POLITICAL SUBDIVISION to [a vote of] the electors which involves THE INCREASE OF ANY AD VALOREM TAX RATE LIMITATION FOR A PERIOD OF MORE THAN FIVE YEARS, the direct expenditure of public money, OR the issue of bonds, [or the increase of any ad valorem tax rate for a period of more than 5 years,] only [persons having the qualifications of] electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or the lawful husbands or wives of such persons shall be entitled to vote thereon. All ELECTORS IN THE DISTRICT OR TERRITORY AFFECTED [persons having the qualifications of electors] may vote on all other questions. [involving an increase in any ad valorem tax rate and on borrowing by this state.]

Sec. 7. A board of state canvassers [consisting] of [4] FOUR members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers. A majority of any board of canvassers shall not be composed of members of the same political party.

Sec. 8. Laws shall be enacted to provide for the recall of all elective officers except judges of courts of record upon petition of electors equal in number to 25 percent of the number of persons voting [at] IN the last preceding election for the office of governor in the electoral district of the officer sought to be recalled. THE SUFFICIENCY OF any statement of reasons or grounds procedurally required shall be [deemed to pose] a political rather than a judicial question.

Sec. 9. The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to reject laws enacted by the legislature, called the referendum. The power of initiative extends only to laws which the legislature may enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds AND MUST BE INVOKED IN THE MANNER PRESCRIBED BY LAW WITHIN 90 DAYS FOLLOWING THE FINAL ADJOURNMENT OF THE LEGISLATIVE SESSION AT WHICH THE LAW WAS ENACTED. To invoke the initiative or referendum, petitions signed by a number of registered electors, not less than [8] EIGHT percent for initiative and [5] FIVE percent for referendum of the total vote cast for all candidates for governor at the last preceding general election AT WHICH A GOVERNOR WAS ELECTED shall be required.

NO LAW AS TO WHICH THE POWER OF REFERENDUM PROPERLY HAS BEEN INVOKED SHALL BE EFFECTIVE THEREAFTER UNLESS APPROVED BY A MAJORITY OF THE ELECTORS VOTING THEREON AT THE NEXT GENERAL ELECTION.

[The] ANY law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If the law so [petitioned for] PROPOSED is not enacted by the legislature within the 40 days, the state officer authorized by law shall submit such proposed law to the people for approval or rejection at the next [ensuing] general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by such state officer to the electors for approval or rejection at the next [ensuing] general election.

Any [act] LAW submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No [act] LAW

Explanation—Matter within [ ] is stricken, matter in capitals is new.

initiated or adopted by the people shall be subject to the veto power of the governor, and no [act] LAW adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors or [3/4] THREE-FOURTHS of the members elected to and serving in each house of the legislature. [Acts] LAWS adopted by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. If [2] TWO or more measures approved by the electors at the same election conflict, THAT [the measure] receiving the highest affirmative vote shall prevail.

The legislature shall implement the provisions of this section.

ARTICLE III
GENERAL GOVERNMENT

Sec.		Com. Proposal
1.	Seat	10a
2.	Division of Powers	21a
3.	Great Seal	18a
4.	Militia	19a
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7.	Laws remain in effect	44a
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Article III
General Government

Sec. 1. The seat of government shall be at Lansing.

Sec. 2. The powers of government are divided into [3] THREE branches: legislative, executive[,] and judicial. No person [belonging to] EXERCISING POWERS OF one branch shall exercise powers properly belonging to another branch[,] except [in] AS [cases] expressly provided in this constitution.

Sec. 3. There shall be a great seal of the State of Michigan and its use shall be [prescribed] PROVIDED by law.

Sec. 4. The militia shall be organized, equipped and disciplined as provided by law.

Sec. 5. Subject to provisions of general law, this state or any political subdivision, ANY GOVERNMENTAL AUTHORITY or any combination thereof may enter into agreements[,] for the performance, financing or execution of their respective [governmental] functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution.

Any other provision of this constitution [to the contrary] notwithstanding, an officer or employee of the state or OF any [municipal corporation or other subdivision or agency] SUCH UNIT OF GOVERNMENT OR SUBDIVISION OR AGENCY thereof may serve on or with any governmental body ESTABLISHED FOR THE PURPOSES SET FORTH IN THIS SECTION [as a representative of the state or any municipal corporation or other subdivision or agency thereof, or for the purpose of participating or assisting in the consideration or performance of joint or cooperative undertakings or for the study of governmental problems,] and shall not be required to relinquish his office or employment by reason of such service. The legislature [by statute] may impose such restrictions, limitations or conditions on such service as it may deem appropriate.

Sec. 6. The state shall not be a party to, nor be financially interested in, any work of internal improvement, nor engage in carrying on any such work, except for public internal improvements [authorized] PROVIDED by law.

Sec. 7. [All law not repugnant to this constitution,] THE COMMON LAW AND THE STATUTE LAWS NOW IN FORCE, NOT REPUGNANT TO THIS CONSTITUTION, shall remain in force until [changed, repealed or in the case of statutes they have expired because of limitations contained therein] THEY EXPIRE BY THEIR OWN LIMITATIONS, OR ARE CHANGED, AMENDED OR REPEALED.

Sec. 8. Either house of the legislature or the governor may request the opinion of the supreme court [up]on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date.

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LEGISLATIVE BRANCH

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Article IV
Legislative Branch

Sec. 1. The legislative power of the State of Michigan is vested in a senate and a house of representatives.

Sec. 2. The senate shall consist of 38 members[,] to be elected from single member districts at the same [time] ELECTION as the governor for [4] FOUR-year terms concurrent with the term of office of the governor.

In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned an apportionment factor equal to the sum of its percentage of the state's population as shown by the last regular federal decennial census computed to the nearest [1/100] ONE-ONE HUNDREDTH of one percent multiplied by [4] FOUR and its percentage of the state's land area computed to the nearest [1/100] ONE-ONE HUNDREDTH of one percent.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties [are] IS entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.

(2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment FACTORS of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there [shall be] IS a failure to comply with the above standards.

(3) Counties entitled to [2] TWO or more senate districts shall be [further sub]divided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

Sec. 3. The house of representatives shall consist of 110 members elected for [2] TWO-year terms from single member districts apportioned on a basis of population as [hereinafter] provided IN THIS ARTICLE. The districts shall consist of compact and convenient territory contiguous by land.

Each county which has a population of not less than [7/10] SEVEN-TENTHS of one percent of the population of the state shall constitute a separate representative area. Each county having less than [7/10] SEVEN-TENTHS of one percent of the population of the state shall be combined with another county or counties to form a representative area of not less than [7/10] SEVEN-

Explanation—Matter within [ ] is stricken, matter in capitals is new.

TENTHS of one percent of the population of the state. Any county which is isolated under the initial allocation as [herein] provided IN THIS SECTION shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one representative.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to [2] TWO or more representatives shall be divided into single member representative districts as follows:

(1) The population of [each] SUCH districtS shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the representative area by the number of representatives to which it is entitled.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population adhering to county lines.

Sec. 4. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial district in the city with which it is combined upon the effective date of the annexation or merger[,]. THE DISTRICTS WITH WHICH THE TERRITORY SHALL BE COMBINED SHALL BE [as] determined by ordinance of the city certified to the secretary of state.

[No legislator shall be deemed to have vacated his office by virtue of the above section.] NO SUCH CHANGE IN THE BOUNDARIES OF A REPRESENTATIVE OR SENATORIAL DISTRICT SHALL HAVE THE EFFECT OF REMOVING A LEGISLATOR FROM OFFICE DURING HIS TERM.

Sec. 5. ISLAND AREAS ARE CONSIDERED TO BE CONTIGUOUS BY LAND TO THE COUNTY OF WHICH THEY ARE A PART.

Sec. 6. A commission on legislative apportionment is hereby established consisting of [8] EIGHT persons, [4] FOUR of whom shall be selected by the state organizations of each of the [2] TWO political parties whose candidates for governor received the highest vote at the last general election AT WHICH A GOVERNOR WAS ELECTED preceding each apportionment. If a candidate for governor of a third political party has received at such election more than 25 percent of such gubernatorial vote, the commission shall consist of 12 members, [4] FOUR of whom shall be selected by the state organization of the third political party. One member of the commission shall be selected by each political party organization from each of the following [4] FOUR regions: (1) The upper peninsula; (2) The northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) Southwestern Michigan, those counties south of region (2) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) Southeastern Michigan, the remaining counties of the state.

No officers or employees of the federal, state or local governments, excepting notaries public and members of the armed forces reserve, shall be eligible for membership on the commission. Members of the commission shall not be eligible for election to the legislature until [2] TWO years after the apportionment [plan] in which they participated becomes effective.

The commission shall be appointed immediately after the adoption of this constitution and whenever [Re]apportionment or districting OF THE LEGISLATURE is required by the provisions of this constitution. Members of the commission shall hold office until each apportionment or districting plan becomes effective. Vacancies shall be filled in the same manner as for original appointment.

The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman, shall make its own rules of procedure, and shall receive compensation provided by law. The legislature shall appropriate funds [necessary] to enable the commission to carry out its activities.

Within 30 days after the adoption of this constitution, and after the official total population count of each federal decennial census of the state and its political subdivisions is available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to DISTRICT AND apportion[, and district,] the senate and house of representatives according to the provisions of this constitution. All final decisions shall require the concurrence of a majority of [all of] the members of the commission. The commission shall hold public hearings as may be provided by law.

Each final apportionment and districting plan shall be published as provided by law within 30 days from the date of its adoption and shall become law 60 days after publication. The secretary of state shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of each plan.

If a majority of the commission cannot agree on a plan, each member of the commission, individually or jointly with other members, may submit a proposed plan to the supreme court. The supreme court shall determine which plan complies most accurately with the constitutional requirements and shall direct that it be adopted BY THE COMMISSION and published as provided in this section.

Upon the application of any [qualified] elector filed not later than 60 days after final publication of the plan, the supreme court, in the exercise of original jurisdiction, shall direct the secretary of state or the apportionment commission to perform their duties, may review any final plan adopted by the commission, and shall make orders amending such plan if it fails to comply with the requirements of this constitution.

Sec. 7. Each senator and representative MUST [shall] be a citizen of the United States, at least 21 years of age, and AN [a qualified] elector of the district he represents[,] . [and] The removal of his domicile from the district shall be deemed a vacation of the office. No person who has been convicted of subversion or who has within the preceding 20 years been convicted of a felony involving a breach of public trust shall be eligible for either house of the legislature.

Sec. 8. No person holding any office under the United States or this state or a political subdivision thereof, except notaries public and officers of the armed forces reserve, may be a member of either house of the legislature.

Sec. 9. No person elected TO [a member of] the legislature shall receive any civil appointment within this state from the governor, except notaries public, [from the governor and senate,] from the legislature, or from any other state authority, during the term for which he is elected.

Sec. 10. No member of the legislature nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest. The legislature shall further implement this provision by appropriate legislation.

Sec. 11. Senators and representatives shall be privileged from civil arrest and civil process during sessions of the legislature and for [5] FIVE days next before the commencement and after the termination thereof. They shall not be questioned in any other place for any speech in either house.

Sec. 12. The annual salary of the members of the legislature shall be not less than $9,000[.], AS PROVIDED BY LAW. Members of the legislature shall be entitled to REIMBURSEMENT FOR [2] TWO round trips home EACH [per] month while the legislature is in session, and expenses in connection with the work of interim committees. [No] ChangeS in salary or expenses shall beCOME effective [during the term of office for which the legislature making the change was elected] ONLY WHEN LEGISLATORS COMMENCE THEIR TERM OF OFFICE AFTER A GENERAL ELECTION except and only to the extent of a general salary reduction in all other branches of STATE government.

No person serving in the legislature shall receive at any time for his services as a member of the legislature any additional fees, compensation or financial benefits from the state or its political subdivisions. This section shall not be construed to [deny] AFFECT retirement benefits [to those] OF legislators [eligible to receive] WHICH HAVE [these benefits at] ACCRUED PRIOR TO the [time] EFFECTIVE DATE OF this constitution [becomes effective].

Sec. 13. The legislature shall meet at the seat of government on the second Wednesday in January of each year at [12:00] TWELVE o'clock noon. Each regular session shall adjourn without day, on a day determined by concurrent resolution, at TWELVE [12:00] o'clock noon. Any business, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over WITH THE SAME STATUS to the next regular session.

Sec. 14. A majority of the members elected to and serving in each house shall constitute a quorum to do business. A smaller number in each house may adjourn from day to day, and may compel the attendance of absent members in the manner and with penalties as each house may prescribe.

Sec. 15. There shall be a bi-partisan legislative council consisting of legislators appointed in the manner prescribed by law. The legislature shall appropriate [adequate] funds for the council's operations and provide for its staff which shall maintain bill drafting, research and other services for the members of the legislature. The council shall PERIODICALLY [from time to time] examine and recommend to the legislature revision of the various laws of the state.

Sec. 16. Each house, except as otherwise provided in this constitution, shall choose its own officers and determine the rules of its proceedings, but shall not adopt any rule that will prevent a majority of the members elected thereto and serving therein from discharging a committee

Explanation—Matter within [ ] is stricken, matter in capitals is new.

from the further consideration of any measure. Each house shall BE THE SOLE judge of the qualifications, elections and returns of its members, and may, with the concurrence of TWO-THIRDS [2/3] of all the members elected thereto and serving therein, expel a member. The reasons for such expulsion shall be entered IN [upon] the journal, with the [yeas and nays] VOTES AND NAMES of the members voting upon the question. No member shall be expelled a second time for the same cause.

Sec. 17. Each house of the legislature may establish the committees necessary for the efficient conduct of its business and the legislature may create joint committees. Each committee shall [keep a recorded] BY roll call vote RECORD THE VOTE AND NAME [by yeas and nays] of all action on bills and resolutions taken in the committee. Such vote shall be available FOR [to] public inspection. Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in the journal in advance of the hearing.

Sec. 18. Each house shall keep a journal of its proceedings, and publish the same unless security otherwise requires. The [yeas and nays] RECORD OF THE VOTE AND NAME of the members of either house VOTING on any question shall be entered in the journal at the request of [1/5] ONE-FIFTH of the members present. Any member of either house may dissent from and protest against any act, proceeding or resolution which he deems injurious to any person or the public, and have the reason for his dissent entered in the journal.

Sec. 19. All elections in either house or in joint convention and all votes on appointments [recommended to the senate for confirmation] SUBMITTED TO THE SENATE FOR ADVICE AND CONSENT shall be [taken by yeas and nays and] published BY VOTE AND NAME in the journal.

Sec. 20. The doors of each house shall be open unless the public security otherwise requires.

Sec. 21. Neither house shall, without the consent of the other, adjourn for more than [3] TWO INTERVENING CALENDAR days, nor to any place other than where the legislature may then be in session.

Sec. 22. All legislation [by the legislature] shall be by bill and may originate in either house.

Sec. 23. The style of the laws shall be: The People of the State of Michigan enact.

Sec. 24. No law shall embrace more than one object, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title.

Sec. 25. No law shall be revised, altered or amended by reference to its title only. The section or sections of the act altered or amended shall be re-enacted and published at length.

Sec. 26. No bill shall be passed or become a law at any regular session of the legislature until it has been printed or reproduced and in the possession of each house for at least [5] FIVE days. Every bill shall be read THREE [3] times in each house before the final passage thereof. No bill shall become a law without the concurrence of a majority of [all] the members elected to and serving in each house. On the final passage of [all] bills, the voteS AND NAMES OF THE MEMBERS VOTING THEREON shall be [by yeas and nays and] entered in the journal.

Sec. 27. No act shall take effect [or be in force] until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a [2/3] TWO-THIRDS vote of the members elected to and serving in each house.

Sec. 28. When the legislature is convened on extraordinary occasions in special session no bill shall be passed on any subjects other than those expressly stated in the governor's proclamation or submitted by special message.

Sec. 29. The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act shall take effect until approved by TWO-THIRDS [2/3] of the members elected to and serving in each house [of the legislature] and by a majority of the electors voting thereon in the district [to be] affected. Any act repealing local or special acts [in effect as of the effective date of this constitution] shall require only a majority of the members elected to and serving in each house and shall not require submission to the electors of such district.

Sec. 30. The assent of TWO-THIRDS [2/3] of the members elected to and serving in each house of the legislature shall be required for the appropriation of public money or property for local or private purposes.

Sec. 31. The general appropriation bills for the succeeding fiscal period covering items set forth in the budget shall be passed or rejected in either house of the legislature before that house passes any appropriation bill for items not in the budget except bills supplementing appropriations for the current FISCAL year's operation. Any bill requiring an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as passed by the legislature shall contain an itemized statement of estimated revenue by major source in each operating fund for the ensuing fiscal period, the total of which shall not be less than the total of all appropriations made from each fund in the gen-

eral appropriation bills as passed.

Sec. 32. Every law which imposes, continues or revives a tax shall distinctly state the tax.

Sec. 33. Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he does not approve, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated. That house shall enter such objections in full in its journal and reconsider the bill. If TWO-THIRDS [2/3] of the members elected TO and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by TWO-THIRDS [2/3] of the members elected TO and serving in that house. The vote of each house shall be [determined by the yeas and nays, and the names of the members voting for and against the bill shall be] entered in the journal WITH THE VOTES AND NAMES OF THE MEMBERS VOTING THEREON. If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it.

Sec. 34. Any bill passed by the legislature and approved by the governor, except A BILL appropriatING MONEY [ion bills], may [be referred by the legislature to the qualified electors. No bill so referred shall] PROVIDE THAT IT WILL NOT become [a] law unless approved by a majority of the electors voting thereon.

Sec. 35. All laws enacted at any session of the legislature shall be published in book form within 60 days after final adjournment of the session, and shall be distributed in the manner provided by law. The [speedy] PROMPT publication of judicial decisions shall be provided by law. All laws and judicial decisions shall be free for publication by any person.

Sec. 36. No general revision of the laws shall [hereafter] be made. The legislature may provide for a compilation of the laws in force, arranged without alteration, under appropriate heads and titles.

Sec. 37. The legislature may by concurrent resolution empower a joint committee of the legislature acting [in the interim] between sessions to suspend until the end of the next regular legislative session any rule or regulation [promulgated by] OF an administrative agency PROMULGATED when the legislature is not in regular session.

Sec. 38. The legislature may provide by law the cases in which any office shall be [deemed] vacant and the manner of filling vacancies[,] where no provision is made in this constitution.

Sec. 39. In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state CAUSED by enemy attack on the United States, the legislature MAY [shall have the power to such extent as it deems advisable (1) to] provide by [legislative enactment] LAW for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices[,]; and ENACT [(2) to adopt by legislative enactment such] other [legislation] LAWS [as may be] necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred by this section, elections shall always be called as soon as possible to fill any [elective] vacancies in [any] ELECTIVE officeS temporarily occupied by operation of any legislation enacted pursuant to the provisions of this section.

Sec. 40. The legislature may by law establish a liquor control commission[,] which, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof. [and] THE LEGISLATURE may provide for an excise tax on such sales. Neither the legislature nor the commission may authorize the manufacture or sale of alcoholic beverages in any county in which a majority of the electors voting thereon shall prohibit the same.

Sec. 41. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

Sec. 42. The legislature may provide for the incorporation of ports and port districts, and confer power and authority upon them to engage in work of internal improvements in connection therewith.

Sec. 43. No general law providing for the incorporation of trust companies or corporations for banking purposes, or regulating the business thereof, shall be enacted, amended or repealed except by a vote of [2/3] TWO-THIRDS of the members elected to and serving in each house [of the legislature].

Sec. 44. The legislature may authorize a trial by a jury of less than 12 jurors in civil cases.

Sec. 45. The legislature may provide for indeterminate sentences as [a] punishment for crime and for the detention and release of per-

Explanation—Matter within [ ] is stricken, matter in capitals is new.

sons imprisoned or detained [on] UNDER such sentences.

Sec. 46. No law shall be enacted providing for the penalty of death.

Sec. 47. The legislature may authorize the employment of chaplains in state institutions of DETENTION OR confinement.

Sec. 48. The legislature may enact laws providing for the resolution of disputes [in] CONCERNING public [employment] EMPLOYEES, except THOSE IN THE state classified civil service.

Sec. 49. The legislature may enact laws relative to the hours and conditions of employment.

Sec. 50. The legislature may provide safety measures and regulate the use of atomic energy and forms of energy developed in the future, having in view the general welfare of the people of this state.

Sec. 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

Sec. 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety[,] and general welfare of the people. The legislature shall provide for the protection of the air, water[,] and other natural resources of the state from pollution, impairment and destruction.

Sec. 53. The legislature by a majority vote of the members elected to and serving in each house, shall appoint an auditor general, who shall be [an administrator and] a certified public accountant [duly] licensed to practice in this state, to serve for a term of [8] EIGHT years. He shall be ineligible for appointment or election to any other [paid] public office in this state FROM WHICH COMPENSATION IS DERIVED while serving as auditor general and for [2] TWO years following the termination of his service. He may be removed for cause at any time by a [2/3] TWO-THIRDS vote of the members elected to and serving in each house [of the legislature]. The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

The auditor general upon direction by the legislature may employ independent accounting firms or legal counsel and may make investigations pertinent to the conduct of audits. He shall report annually to the legislature and to the governor and at such other times as he deems necessary or as required by the legislature. He shall be assigned no duties other than those [herein] specified IN THIS SECTION.

Nothing in this section shall be construed in any way to infringe the responsibility and constitutional authority of the governing boards of the [universities and colleges] INSTITUTIONS OF HIGHER EDUCATION to be solely responsible for the control and direction of all expenditures from the institutions' funds.

[The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.]

The auditor general, his deputy and one other member of his staff shall be exempt from classified civil service. All other members of his staff shall have classified civil service status.

ARTICLE V

EXECUTIVE BRANCH

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Article V
Executive Branch

Sec. 1. The executive power is vested in the governor.

Sec. 2. All executive and administrative offices, agencies and instrumentalities of the EXECUTIVE BRANCH OF state government and their respective functions, powers and duties, except for the office of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes.

Subsequent to the initial allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders AND SUBMITTED TO THE LEGISLATURE. THEREAFTER the legislature shall have 60 CALENDAR days of a regular session, or a full session if of shorter duration, to disapprove [these] EACH executive order[s]. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, [these] EACH order[s] shall become effective at a date thereafter to be designated by the governor.

Sec. 3. The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer and an attorney general. When a single executive [other than an elective official,] is the head of a principal department, UNLESS ELECTED OR APPOINTED AS OTHERWISE PROVIDED IN THIS CONSTITUTION, he shall be [nominated and,] APPOINTED BY THE GOVERNOR by and with the advice and consent of the senate[, appointed by the governor] and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, [the members thereof,] unless elected or appointed as otherwise provided in this constitution, THE MEMBERS THEREOF shall be [nominated and,] APPOINTED BY THE GOVERNOR by and with the advice and consent of the senate[, appointed by the governor]. The term of office and procedure for removal of such members shall be as prescribed in this constitution or by law.

Terms of office of any board or commission created or enlarged after [adoption] THE EFFECTIVE DATE of this constitution shall not exceed [4] FOUR years except as otherwise authorized in this constitution. The terms of office of existing boards and commissions[,] which are [greater] LONGER than [4] FOUR years shall not be further extended except as provided in this constitution.

Sec. 4. At no time shall an examining or licensing board of a profession INCLUDE [be composed of] less than a majority of members of that profession. Temporary commissions or agencies for special purposes with a life of no more than [2] TWO years may be established by law and need not be allocated within a principal department.

Sec. 5. Appointment by and with the advice and consent of the senate when used in this constitution or [in statutes] LAWS in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 [legislative] SESSION days after the date of such appointment. [If the] ANY appointment [is] not disapproved within such period [of time the appointment] shall stand confirmed.

Sec. 6. [When the senate is not in session, the governor shall fill a vacancy] VACANCIES in any office, appointment to which requires advice and consent of the senate, [by appointment which may be disapproved by the senate in the manner provided for other] SHALL BE FILLED BY THE GOVERNOR BY AND WITH THE ADVICE AND CONSENT OF THE SENATE. [appointments requiring such advice and consent.] A person [who] WHOSE APPOINTMENT has been disapproved by the senate shall not be eligible for [another] AN interim appointment to the same office.

Sec. 7. Each principal department shall be under the supervision of the governor[,] unless otherwise provided by this constitution. The governor shall take care that the laws be faithfully executed. He shall transact all necessary business with the officers of government and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may initiate court proceedings in the name of the state to enforce compliance with any constitutional or legislative mandate, or to restrain violations of any constitutional or legislative power, duty[,] or right by any officer, department[,] or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize court proceedings against the legislature.

Sec. 8. Single executives heading principal departments and the chief executive officers of

Explanation—Matter within [ ] is stricken, matter in capitals is new.

principal departments headed by boards or commissions shall keep their offices at the seat of government except as otherwise provided by law, superintend them in person and perform duties prescribed by law.

Sec. 9. The governor shall have power and it shall be his duty[,] to inquire into the condition and administration of any public office and the acts of any public officer, elective or appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or FOR any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and report the [causes of] REASONS FOR such removal or suspension to the legislature. [if in session or otherwise at its next session.]

Sec. 10. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an appointed or elected officer, other than a [judicial] LEGISLATIVE OR JUDICIAL officer, until he is REINSTATED [acquitted] or[, if convicted,] until the vacancy is filled in the manner prescribed by law or this constitution [for such office].

Sec. 11. The governor shall be commander-in-chief of the armed forces and may call them out to execute the laws, suppress insurrection and repel invasion.

Sec. 12. The governor shall issue writs of election to fill vacancies in the senate or house of representatives. Any such election shall be held in a manner prescribed by law.

Sec. 13. The governor shall have power to grant reprieves, commutations and pardons after convictions for all offenses, except cases of impeachment, upon such conditions and limitations as he may direct, subject to procedures and regulations [provided] PRESCRIBED by law. He shall inform the legislature annually of each reprieve, commutation and pardon granted, stating reasons therefor.

Sec. 14. The governor may convene the legislature on extraordinary occasions.

Sec. 15. The governor may convene the legislature at some other place when the seat of government becomes dangerous from any cause.

Sec. 16. The governor shall communicate by message to the legislature at the beginning of each session and may at other times present to the legislature information as to the affairs of the state and recommend measures he considers necessary or desirable.

Sec. 17. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, for all operating funds, the proposed expenditures and estimated revenue of the state. Proposed expenditures from any fund shall not exceed the estimated revenue thereof. On the same date, the governor shall submit to the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills to provide new or additional revenues to meet proposed expenditures. The amount of any surplus created or deficit incurred in any fund during the last preceding fiscal period shall be entered as an item in the budget and in one of the appropriation bills. The governor may submit amendments to appropriation bills to be offered in either house during consideration of the bill by that house, and shall submit any bills to meet deficiencies in current appropriations.

Sec. 18. The governor [shall have power to] MAY disapprove any distinct item or items APPROPRIATING MONEYS in any appropriation bill. The part or parts approved shall become law, and the item or items disapproved shall be void unless re-passed according to the method prescribed for the passage of other bills over the executive veto.

Sec. 19. No appropriation shall be [deemed] a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures AUTHORIZED BY [of any bodies receiving] appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based. Reductions in expenditures shall be made in accordance with procedures [established] PRESCRIBED by law. The governor['s power to reduce expenditures shall not apply to] MAY NOT REDUCE EXPENDITURES OF the legislative and judicial branches or FROM [to those services for which] funds CONSTITUTIONALLY DEDICATED FOR SPECIFIC PURPOSES. [are mandated by this constitution.]

Sec. 20. The governor, lieutenant governor, secretary of state and attorney general shall be elected FOR FOUR-YEAR TERMS at the general election in each alternate even-numbered year. [They shall serve for terms of 4 years beginning at 12:00 o'clock noon on the first day of January next succeeding their election.]

The lieutenant governor, secretary of state and attorney general shall be nominated by party conventions in a manner prescribed by law. In the general election one vote shall be cast jointly for the candidates for governor and lieutenant governor nominated by the same party.

VACANCIES IN THE OFFICE OF THE SECRETARY OF STATE AND ATTORNEY GENERAL SHALL BE FILLED BY APPOINTMENT BY THE GOVERNOR.

Sec. 21. [No person shall] TO be eligible for the office of governor or lieutenant governor [who shall not have] A PERSON MUST HAVE attained the age of 30 years, and [who shall] have [not] been [4 years next preceding his election] a registered elector in this state FOR FOUR

YEARS NEXT PRECEDING HIS ELECTION.

Sec. 22. The governor, lieutenant governor, secretary of state[, state treasurer] and attorney general shall each receive the compensation [prescribed] PROVIDED by law in full payment for all services performed and expenses incurred during his term of office. Such compensation shall not be changed during the term of office except as otherwise provided in this constitution.

Sec. 23. An executive residence suitably furnished shall be provided at the seat of government for the use of the governor. He shall receive an allowance for its maintenance as provided by law.

Sec. 24. The lieutenant governor shall be president of the senate, but shall have no vote except in case of equal division. He [shall] MAY perform [additional] duties [as] requested of him by the governor[.], BUT NO POWER VESTED IN THE GOVERNOR SHALL BE DELEGATED.

Sec. 25. In case of the conviction of the governor on impeachment, his removal from office, his resignation, or [the] HIS death, [of the governor or governor-elect, the powers and duties of the office shall vest, in the following order of precedence, in the person elected at the last election to the office of] THE lieutenant governor, THE ELECTED secretary of state, THE ELECTED attorney general, and such other persons designated by law[, who] shall IN THAT ORDER be governor [after the commencement of their term] for the [residue] REMAINDER of the governor's term.

IN CASE OF THE DEATH OF THE GOVERNOR-ELECT, THE LIEUTENANT GOVERNOR-ELECT, THE SECRETARY OF STATE-ELECT, THE ATTORNEY GENERAL-ELECT AND SUCH OTHER PERSONS DESIGNATED BY LAW SHALL BECOME GOVERNOR IN THAT ORDER AT THE COMMENCEMENT OF THE GOVERNOR-ELECT'S TERM.

If the governor or the person in line of succession to serve as governor is absent from the state, or suffering under an inability [as determined herein], the powers and duties of the office of governor shall devolve in order of precedence [upon such persons] until the absence or inability giving rise to the DEVOLUTION [devolvement] of powers ceases.

The inability of the governor[, governor-elect] or person[s serving] ACTING as governor shall be determined by a majority of the supreme court on joint request of the president pro tempore of the senate and the speaker of the house of representatives. Such determination shall be final and conclusive. The supreme court shall upon its own initiative determine if and when the inability ceases.

Sec. 26. The legislature shall provide that the salary of any state officer WHILE ACTING AS [performing the duties of] governor [is] SHALL BE equal to that of the governor.

Sec. 27. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as [shall be prescribed] PROVIDED by law.

The state highway commission shall consist of [4] FOUR members, not more than [2] TWO of whom shall be members of the same political party. They shall be appointed by the governor BY AND with the advice and consent of the senate for [4] FOUR-year terms, no [2] TWO of which shall expire in the same year AS PROVIDED BY LAW.

The state highway commission shall appoint AND MAY REMOVE a state highway director, who shall be a competent highway engineer and administrator. He shall be the PRINCIPAL [chief] executive OFFICER of the state highway department and shall be responsible for executing the policy of the state highway commission.

Sec. 28. There is hereby established a civil rights commission which shall consist of [8] EIGHT persons, not more than [4] FOUR of whom shall be members of the same political party, who shall be appointed by the governor, with the advice and consent of the senate, for [4] FOUR-year terms not more than [2] TWO of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of [race] religion, RACE, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have [the] power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

Explanation—Matter within [ ] is stricken. matter in capitals is new.

ARTICLE VI
JUDICIAL BRANCH

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Article VI
Judicial Branch

Sec. 1. The judicial power of the state is vested exclusively in one court of justice[,] which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and other courts of limited jurisdiction that the legislature may establish by a [2/3] TWO-THIRDS vote of the members ELECTED TO AND SERVING IN [of] each house.

Sec. 2. The supreme court shall consist of [8] SEVEN justices [to be] elected at non-partisan elections as provided by law. [A vacancy hereafter created as the result of the death, retirement or resignation of one incumbent justice shall not be filled.] The term of office shall be [for 8] EIGHT years and not more than [3] TWO terms of office shall expire at the same time. Nominations for justices of the supreme court shall be in the manner [as provided] PRESCRIBED by law[,]. [except] Any incumbent justice whose term is to expire may become a candidate for re-election by filing an affidavit of candidacy, in the form and manner prescribed by law, not less than 180 days prior to the expiration of his term.

Sec. 3. One justice of the supreme court shall be selected by the court as its chief justice AS [in the manner and for the term] provided by [the] rules of the court. He shall perform other duties required by the court. The supreme court shall appoint an administrator of the courts and other assistants of the supreme court as [shall] MAY be [deemed] necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.

Sec. 4. The supreme court shall have general superintending control over all courts; power to issue, hear, and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.

Sec. 5. The supreme court shall by general rules establish, modify, amend and simplify the practice and procedure in all courts of this state. The distinctions between law and equity proceedings shall, as far as practicable, be abolished. The office of master in chancery is prohibited.

Sec. 6. Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent.

Sec. 7. The supreme court may appoint, may remove, and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of [the funds] MONEYS appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

Sec. 8. The court of appeals shall consist initially of [9] NINE judges who shall be nominated and elected [on a] AT non-partisan ELECTIONS [basis] from districts, and in the manner, prescribed by law. The supreme court may prescribe by rule that the court of appeals may sit in divisions and for the terms of court and the times and places thereof. Each such division shall consist of not fewer than three judges. The number of judges comprising the court of appeals may be increased, and the districts from which they are elected may be [altered] CHANGED by law.

Sec. 9. Judges of the court of appeals shall hold office for a TERM [period] of [6] SIX years and until their successors are elected and qualified. The terms of office for the judges in each district shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 10. The jurisdiction of the court of appeals shall be provided by law and the practice and procedure therein shall be [as provided] PRESCRIBED by rules of the supreme court.

Sec. 11. The state shall be divided into judicial circuits along county lines in each of which there shall be elected one or more circuit judges as provided by law. [A] SESSIONS OF THE circuit court shall be held at least [4] FOUR times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or counties within the circuit in which he is elected, and in other circuits as may be provided by rules of the supreme court. The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall be created, altered and discontinued on recommendation of the supreme court to reflect changes in judicial activity. No change in the number of judges [n]or alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.

Sec. 12. Circuit judges shall be nominated and elected at non-partisan elections in the circuit in which they reside, and shall hold office for a TERM [period] of [6] SIX years and until their successors are elected and qualified. In circuits having more than one circuit judge their terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 13. THE circuit court[s] shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions[,] in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court.

Sec. 14. The clerk of each county organized for judicial purposes or other officer performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such county. The judges of the circuit court[s] may fill [any] A vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions.

Sec. 15. In each county organized for judicial purposes[,] there shall be a probate court. The legislature may [combine one or more counties into] CREATE OR ALTER probate COURT districts OF MORE THAN ONE COUNTY [upon the approval by a majority of the voters of each county voting separately on the question,] IF APPROVED IN EACH AFFECTED COUNTY BY A MAJORITY OF THE ELECTORS VOTING ON THE QUESTION. [or combine] THE LEGISLATURE MAY PROVIDE FOR THE COMBINATION OF the office of probate judge with any judicial office of limited jurisdiction [in any] WITHIN A county with supplemental salary as provided by law. The jurisdiction, powers and duties of the probate court[s] and of the judges thereof shall be [prescribed] PROVIDED by law. They shall [also] have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. 16. ONE OR MORE judges of probate AS PROVIDED BY LAW shall be nominated and elected at non-partisan elections in the counties or the probate districtS in which they reside and shall hold office for [a period] TERMS of [6] SIX years and until their successors are elected and qualified. In counties or districts with more than one judge the terms of office shall be arranged by law to provide that NOT all terms will [not] expire at the same time.

Sec. 17. No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or [by] the amount of judicial activity of his office.

Sec. 18. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within a [county or] circuit, and of the probate judges within a county or district, shall be uniform, and may be increased, but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

Each of the judges of the circuit court[s] shall receive an annual salary as provided by law. In addition to the salary received from the state, [treasury,] each circuit judge may receive from any county in which he regularly holds court [such] AN additional salary as [may be] determined from time to time by the board of supervisors of the county. In any county where [such] AN additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

Sec. 19. The supreme court, the court of appeals, the circuit court, the probate court and other courts designated as such by the legislature shall be courts of record and [shall] each SHALL have a common seal. [Except as otherwise authorized by this constitution,] Justices and judges of [the] courts of record [of this state shall] MUST be PERSONS WHO ARE licensed to practice law in this state. [and] No person shall be elected or appointed to a judicial office after reaching the age of 70 years.

Sec. 20. Whenever a JUSTICE OR judge removes his domicile beyond the limits of the territory from which he was elected, he shall [be deemed to] have vacated his office.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Sec. 21. Any justice or judge of a court of record shall be ineligible to be nominated for or elected to an elective office other than a judicial office during the period of his service [as a judge] and for one year thereafter.

Sec. 22. Any elected judge of [a] THE court of appeals, circuit court or probate court may become a candidate in the primary election for the office of which he is the incumbent by filing an affidavit of candidacy in the form and manner [provided] PRESCRIBED by law.

Sec. 23. A vacancy in the elective office of a judge of any court of record shall be filled at a general or special election AS PROVIDED BY [according to] law. The supreme court may authorize persons who have served as judges and who have retired, to perform judicial duties for the limited period of time from the occurrence of the vacancy until the successor is elected and qualified. SUCH PERSONS SHALL BE INELIGIBLE FOR ELECTION TO FILL THE VACANCY.

Sec. 24. There shall be printed upon the ballot under the name of each elected incumbent justice or judge[,] who is a candidate for nomination or election to the same office[,] the designation of that office.

Sec. 25. For reasonable cause, which is not sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of [2/3] TWO-THIRDS of the members elected to and serving in each house of the legislature. The cause for removal shall be stated at length in [such] THE resolution.

Sec. 26. The offices of circuit court commissioner and justice of the peace shall be abolished at the expiration of [5] FIVE years from the date this constitution becomes effective or may within this period be abolished by law. Their jurisdiction and powers within this period shall be as provided by law. Within [such] THIS [5] FIVE-year period, the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law. The location of such court or courts, and the qualifications, tenure, method of election[,] and salary of the judges of such court or courts, and by what governmental units the JUDGES [same] shall be paid, shall be provided by law, subject to the limitations contained in this Article.

Statutory courts in existence at the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until they are abolished by law.

Sec. 27. The supreme court, the court of appeals, the circuit court, or any justices or judges thereof, shall not exercise any power of appointment to public office except as [otherwise] provided in this constitution.

Sec. 28. All final decisions, findings, rulings and orders of any administrative officer or [body] AGENCY existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights [,] or licenses, shall be subject to direct review by the courts as [shall be] provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law[,]; and, in cases in which a hearing is required, whether the same are supported by competent, material[,] and substantial evidence on the whole record[:]. [Provided however, that the] Findings of fact [of the] IN workmen's compensation [commission] PROCEEDINGS shall be conclusive in the absence of fraud unless otherwise provided by law.

Sec. 29. Justices of the supreme court, judges of the court of appeals, circuit judges[,] and other judges as provided by law shall be conservators of the peace within their respective jurisdictions.

ARTICLE VII
LOCAL GOVERNMENT

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Article VII
Local Government

Sec. 1. Each organized county shall be a body corporate with powers and immunities [prescribed] PROVIDED by law.

Sec. 2. Any county may frame, adopt, amend or repeal a county charter in a manner and with powers and limitations to be provided by general law, which shall among other things provide for the election of a charter commission. The law may permit the organization of county government in form different from that set forth in this constitution and shall limit the rate of ad valorem property taxation for county purposes, and restrict THE [their] powers of CHARTER COUNTIES TO borrow[ing] money and contract[ing] debts. Each charter county is hereby granted power to levy other taxes for county purposes subject to limitations and prohibitions set forth in this constitution or law. Subject to law, a county charter may authorize the county through its regularly constituted authority to [enact] ADOPT resolutions and ordinances relating to its concerns.

The board of supervisors by a majority vote of its members may, and upon petition of [5] FIVE percent of the electors shall, place upon the ballot the question of electing a commission to frame a charter.

No county charter shall be adopted, amended or repealed until approved by a majority of electors voting on the question.

Sec. 3. No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed by the United States, unless APPROVED in [pursuance of] THE MANNER PRESCRIBED BY law BY a majority of electors voting [on] THEREON [the question] in each county to be affected. [thereby shall so decide.]

Sec. 4. There shall be elected for [4] FOUR-year terms in each organized county a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be [prescribed] PROVIDED by law. The board of supervisors in any county may COMBINE [unite] the offices of county clerk and register of deeds in one office or separate the same at pleasure.

Sec. 5. The sheriff, county clerk, county treasurer and register of deeds shall hold their principal offices at the county seat.

Sec. 6. The sheriff may be required by law to renew his security [from time to time] PERIODICALLY and in default of giving such security, his office shall be [deemed] vacant. The county shall never be responsible for his acts, except that the board of supervisors may protect him against claims by prisoners for unintentional injuries received while in his custody. He shall not hold any other office except in [connection with] civil defense.

Sec. 7. A board of supervisors shall be established in each ORGANIZED county consisting of one member from each organized township and such representation from cities as [shall be prescribed] PROVIDED by law.

Sec. 8. [The] Boards of supervisors shall have LEGISLATIVE, ADMINISTRATIVE [such] AND SUCH OTHER powers and duties as provided by law [not inconsistent with this constitution].

Sec. 9. [The] Boards of supervisors shall have exclusive power to fix the compensation of [all] county [officials] OFFICERS not otherwise provided [for] by law.

Sec. 10. [No] A county seat once established shall NOT be removed until the place to which it is proposed to be [re]moved shall be designated by [2/3] TWO-THIRDS of the MEMBERS OF THE board of supervisors [of the county,] and a majority of the electors voting thereon shall have [voted in favor of] APPROVED the proposed location in [a] THE manner prescribed by law.

Sec. 11. No county shall incur any indebtedness which shall increase its total debt beyond 10 percent of its assessed valuation.

Sec. 12. [No] A navigable stream [of this state] shall NOT be bridged or dammed without permission granted by the board of supervisors of the county [under the provisions of] AS PROVIDED BY law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and POLITICAL SUBDIVISIONS [the municipalities] therein.

Sec. 13. Two or more CONTIGUOUS counties may combine into a single county [provided] IF APPROVED IN EACH AFFECTED COUNTY BY a majority of the [voters] ELECTORS voting on the question. [of each county, voting separately, approve such combination and the counties are contiguous.]

Sec. 14. The board of supervisors of each organized county may organize and consolidate townships under restrictions and limitations [prescribed] PROVIDED by law.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Sec. 15. Any county, when authorized by its BOARD OF SUPERVISORS [legislative body] shall have the authority to enter or to intervene in any ACTION [suit] or certificate proceeding involving the services, charges or rates of any privately owned public utility furnishing services or commodities to rate payers within the county.

Sec. 16. The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the state and by the counties and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The legislature may [also prescribe] PROVIDE the powers and duties of counties in relation to highways, bridges, culverts and airports; may provide for county road commissioners to be appointed or elected, with powers and duties [as may be prescribed] PROVIDED by law. The ad valorem property tax IMPOSED for road purposes by any county shall not exceed in any year [1/2] ONE-HALF of one percent of the assessed valuation for the preceding year.

Sec. 17. Each organized township shall be a body corporate with powers and immunities [prescribed] PROVIDED by law [and not inconsistent with this constitution].

Sec. 18. IN EACH ORGANIZED TOWNSHIP there shall be elected for [a] termS of not less than [2 years] TWO nor more than [4] FOUR years as [provided] PRESCRIBED by law [in each organized township] a [township] supervisor, a [township] clerk, a [township] treasurer, and[,] not to exceed [4 township] FOUR trustees, whose legislative and administrative powers and duties shall be [prescribed] PROVIDED by law.

Sec. 19. No ORGANIZED township shall grant any public utility franchise which is not subject to revocation at the will of the township, unless the proposition shall FIRST have BEEN APPROVED BY [first received the affirmative vote of] a majority of the electors of such township voting thereon at a regular or special election.

Sec. 20. The legislature shall provide by law for the dissolution of township government whenever all the territory of [a] AN ORGANIZED township is included within the boundaries of a village or villages NOTWITHSTANDING THAT A VILLAGE MAY INCLUDE TERRITORY WITHIN ANOTHER ORGANIZED TOWNSHIP and provide by law for the classification of such village or villages as cities [notwithstanding that a village may include territory within another township].

Sec. 21. The legislature shall provide by general laws for the incorporation of cities and villages[;] . [such general laws] SUCH LAWS shall limit their rate of [general] AD VALOREM property taxation for municipal purposes, and restrict [their] THE powers of CITIES AND VILLAGES TO borrow[ing] money and contract[ing] debts. Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.

Sec. 22. Under general laws the electors of each city and village shall have the power and authority to frame, adopt[,] and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village. Each such city and village shall have power to [pass] ADOPT resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall [be deemed to] limit or restrict the general grant of authority conferred by this section.

Sec. 23. Any city or village may acquire, own, establish and maintain, within or without its corporate limits, parks, boulevards, cemeteries, hospitals[,] and all works which involve the public health or safety.

Sec. 24. Subject to this constitution, any city or village may acquire, own[,] and operate, within or without its corporate limits, public service facilities for supplying water, light, heat, power, sewage disposal and transportation to the municipality and the inhabitants thereof.

Any city or village may sell and deliver heat, power[, and] OR light without its corporate limits [to] IN an amount not [to exceed] EXCEEDING 25 percent of that furnished by it within the corporate limits, except as greater amounts may be permitted by law; may sell and deliver water and provide sewage disposal services[,] outside of its corporate limits in such amount as may be determined by the legislative body of the city or village; and may operate transportation lines [without] OUTSIDE the municipality within such limits as may be prescribed by law.

Sec. 25. No city or village shall acquire any public utility furnishing light, heat [and] OR power, or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless the proposition shall FIRST have been approved by [3/5] THREE-FIFTHS of the electors voting thereon. No city or village may sell any such public utility unless the proposition shall FIRST have been approved by a majority of the electors voting thereon, or a greater number if the charter shall so provide.

Sec. 26. Except as otherwise provided in this constitution, no city or village shall have the power to loan its credit for any private purpose or, except as [authorized] PROVIDED by law, for any public purpose.

Sec. 27. Notwithstanding any other provision

of this constitution the legislature may establish in metropolitan areas additional forms of government or authorities with powers, duties and jurisdictions as the legislature shall provide. Wherever possible, such additional forms of government or authorities shall be designed to perform multi-purpose functions rather than a single function.

Sec. 28. The legislature by general law shall authorize two or more counties, cities, villages, townships or districts, or any combination thereof among other things to: enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government [and with intergovernmental agencies]; lend their credit to one another or any combination thereof as PROVIDED [prescribed] by law in connection with any authorized publicly owned undertaking.

Any other provision of this constitution notwithstanding, an officer or employee of the state or any [of] such unit[s] of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the [above] purposes SET FORTH IN THIS SECTION and shall not be required to relinquish his office or employment by reason of such service.

Sec. 29. No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, city, village or township for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, city, village or township; or to transact local business therein without first obtaining a franchise from the city, village or township. Except as otherwise [authorized] PROVIDED in this constitution the right of all counties, cities, villages and townships to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.

Sec. 30. No franchise or license shall be granted by any city, village or township for a [longer] period LONGER than 30 years.

Sec. 31. The legislature shall not vacate or alter any road, street, alley, or public place under the jurisdiction of any county, township, city or village.

Sec. 32. Any county, township, city, village, authority or school district empowered by the legislature or by this constitution to prepare budgets of estimated expenditures and revenues shall adopt [said] SUCH budgets only after a public hearing in a manner prescribed by law.

Sec. 33. The provisions of this constitution and law concerning cities, villages, counties and townships shall be liberally construed in their favor. Powers granted to counties and townships by this constitution and by law shall include those fairly implied and not [inconsistent with nor] prohibited by this constitution.

ARTICLE VIII
EDUCATION

Sec.		Com. Proposal
1.	Principles	1a
2.	Legislative duty to public education	30a
3.	State Board of Education—Superintendent of Public Instruction	47a
4.	Higher education appropriations	98a
5.	Higher education—U of M, MSU, WSU	98b
6.	Other institutions of higher education.	98c
7.	Community and Junior colleges	98d
8.	Instruction programs, etc.	13a
9.	Public libraries, support of	31a

Article VIII
Education

Sec. 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Sec. 2. The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to race, creed, religion, color[,] or national origin.

Sec. 3. Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to [degree granting] institutions of higher education GRANTING BACCALAUREATE DEGREES, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies. He shall be the [chief administrative] PRINCIPAL EXECUTIVE officer of a state department of education which shall

Explanation—Matter within [ ] is stricken, matter in capitals is new.

have powers and duties provided by law.

The state board of education shall consist of [8] EIGHT members[.] WHO [Of the members first elected 2 shall serve for 2 years, 2 for 4 years, 2 for 6 years and 2 for 8 years, and their successors shall be elected for terms of 8 years. Each member] shall be nominated by party conventionS and elected at large FOR TERMS OF EIGHT YEARS as prescribed by law. The governor shall fill any vacancy by appointment for the unexpired term. The governor shall [also] be ex-officio a member of the state board of education without the right to vote.

The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section.

Sec. 4. The legislature shall appropriate MONEYS [funds] to maintain the University of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, by whatever names [said] SUCH institutions may hereafter be known, and other institutions of higher education established by law. The legislature shall be given an annual accounting of all income and expenditures by each of these educational institutions. Formal sessions of governing boards of such institions shall be open to the public.

Sec. 5. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. [These] EACH board[s] shall have [the] general supervision of [their respective] ITS institution[s] and the control and direction of all expenditures from the institution's funds. EACH BOARD [They] shall, as often as necessary, elect a president of the institution under ITS [their respective] supervision, [who] HE shall be the principal executive officer of the institution, [and] be ex-officio a member of the board [but] without the right to vote[,] and preside at meetings of the board. The board[s] of each institution shall consist of [8] EIGHT members who shall hold office for TERMS OF [8] EIGHT years and who shall be elected [according to] AS PROVIDED BY law. The governor shall fill board vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as [prescribed] PROVIDED by law.

Sec. 6. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. [and] IT shall, as often as necessary, elect a president of the institution under its supervision. [who] HE shall be the principal executive officer of the institution and be ex-officio a member of the board [but] without the right to vote. The board may elect one of ITS MEMBERS [their number], or may designate the president, to preside at board meetings. Each board of control shall consist of [8] EIGHT members who shall hold office for TERMS OF [8] EIGHT years, NOT MORE THAN TWO OF WHICH SHALL EXPIRE IN THE SAME YEAR, and WHO SHALL be appointed by the governor BY AND WITH THE ADVICE AND CONSENT OF THE SENATE. [in the same manner as executive appointments are provided in this constitution.] Vacancies shall be filled in like manner.

Sec. 7. The legislature shall provide by law for the establishment and financial support of public community and junior colleges[,] which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges[,] which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of [8] EIGHT members who shall hold office for TERMS OF [8] EIGHT years, NOT MORE THAN TWO OF WHICH SHALL EXPIRE IN THE SAME YEAR, and WHO SHALL be appointed by the state board of education. Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex-officio a member of this board without the right to vote.

Sec. 8. Institutions, programs, and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally, or otherwise seriously handicapped shall always be fostered and supported.

Sec. 9. The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof. All fines assessed and collected in the several counties, cities[,] and townships for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law.

ARTICLE IX
FINANCE & TAXATION

Sec.		Com. Proposal
1.	Tax for State Expenses	50a
2.	No Surrender of Tax Power	54a
3.	Uniform Rule of Taxation	51a
4.	Non Profit Corporation	51a
5.	Assessment, rate of	52a
6.	Limits on Ad Valorem Taxes	56a
7.	No graduated tax	51a
8.	Sales Tax limit	39a
9.	Gasoline and Motor Vehicle Taxes, Use, Exceptions	38a
10.	Sales Taxes, Distribution of	39a
11.	School Aid Fund	39b
12.	Evidence of Indebtedness	23a
13.	Public Bodies, Borrowing of	49a
14.	State Pledge Full Faith and Credit	23b
15.	Additional Borrowing	23b
16.	School Bonds	23d
17.	Payments from Treasury	37b
18.	Prohibition on Credit to Private Concerns	23c
19.	Stock, Interest of State in	37d
20.	State Depositories	37a
21.	Annual Accounting of Public Moneys	37c, 78a
22.	Adjustment of Claims	74a
23.	Financial Records; open and public	37c–1
24.	Pensions, State Obligations	40a

Article IX
Finance and Taxation

Sec. 1. The legislature shall impose taxes sufficient with other resources to pay the expenses of state government.

Sec. 2. The power of taxation shall never be surrendered, suspended[,] or contracted away.

Sec. 3. The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 percent; and for a system of equalization of assessments. The legislature may provide for alternative means of taxation of designated real and tangible personal property in lieu of general ad valorem taxation. Every tax other than the general ad valorem property tax shall be uniform upon the class or classes on which it operates.

Sec. 4. Property held by a non-profit corporation, association, or legal entity and used and occupied exclusively for religious, educational, charitable or burial grounds purposes, as defined by law, shall be exempt from real and personal property taxes.

Sec. 5. The legislature shall provide for the assessment by the state of the property of those PUBLIC SERVICE businesses [whose property is now] assessed by the state AT THE DATE THIS CONSTITUTION BECOMES EFFECTIVE, and of other property as designated by the legislature, and for the [levy] IMPOSITION and collection of taxes thereon. Property assessed by the state shall be assessed at the same proportion of its true cash value as the legislature shall specify for property subject to general ad valorem taxation. The rate of taxation on such property shall be the average rate levied upon other property in this state under the general ad valorem tax law, or, if the legislature provides, the rate of tax applicable to the property of each business enterprise assessed by the state shall be the average rate of ad valorem taxation levied upon other property in all counties in which any of such property is situated.

Sec. 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes [levied against] IMPOSED UPON REAL AND TANGIBLE PERSONAL property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of [said] property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and FOR the townships and FOR school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. The limitations established [herein] BY THIS CONSTITUTION or by county vote may be increased to an aggregate of not to exceed 50 mills, OR MORE IF PROVIDED BY LAW, on each dollar of [such] valuation, [except as otherwise provided by law,] for a period of not to exceed 20 years at any one time, [by the vote of] IF APPROVED BY a majority of the [qualified] electors, QUALIFIED UNDER [as defined in] Article II, [hereof] SECTION 6 OF THIS CONSTITUTION[,] VOTING ON THE QUESTION [of any such taxing authority voting thereon].

The foregoing limitations shall not apply to [(a)] taxes [levied] IMPOSED for the payment of principal and interest on bonds or other evidences of indebtedness[,] or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be [levied] IMPOSED without limitation as to rate or amount[,]; or [(b)] TO taxes [levied] IMPOSED for any other purpose by any city, village, charter county, charter township or other charter authority the tax limitations of which are provided by charter or by general law.

Explanation—Matter within [ ] is stricken, matter in capitals is new.

In any school district which extends into [2] TWO or more counties, [there may be levied and collected for school purposes throughout the district] property taxes at the highest rate available in the county which contains the greatest part of the area of the district MAY BE IMPOSED AND COLLECTED FOR SCHOOL PURPOSES THROUGHOUT THE DISTRICT.

Sec. 7. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

Sec. 8. [At no time shall] The legislature SHALL NOT [levy] IMPOSE a sales tax on retailers at a rate of more than [4] FOUR percent of their gross taxable sales of tangible personal property.

Sec. 9. All specific taxes, except general sales and use taxes and regulatory fees, imposed DIRECTLY OR INDIRECTLY on fuels sold or used to propel motor vehicles upon highways and on registered motor vehicles shall, after the payment of [the] necessary collection expenses, be used exclusively for highway purposes as defined by law.

Sec. 10. One-eighth of all taxes [upon the privilege of selling] IMPOSED ON RETAILERS ON TAXABLE SALES AT RETAIL OF tangible personal property [at retail] shall be used exclusively for assistance to cities, villages and townships, on a population basis as provided by law. IN DETERMINING POPULATION the legislature may exclude [from population] any portion of the total number of persons who are wards, patients or convicts [of] IN any tax supported institution.

Sec. 11. There shall be established a state school aid fund. The legislature may [from time to time] dedicate [certain] tax revenues to this fund which shall be used exclusively for the support of public education and [for] school employees' retirement systems, [in a manner] AS provided by law.

Sec. 12. No evidence of state indebtedness shall be issued except for debts authorized pursuant to this constitution.

Sec. 13. Public bodies corporate shall have power to borrow money and to issue their securities evidencing debt, subject to this constitution and law.

Sec. 14. To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 percent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

Sec. 15. The state may borrow money for specific purposes in amounts as may be provided by acts of the legislature adopted by a vote of [2/3] TWO-THIRDS of the members elected to and serving in each house, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

Sec. 16. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

If the minimum amount which [it] would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as [last] FINALLY equalized [by the state], or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall LEND [loan] the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall LEND [loan] to it an amount sufficient to enable the school district to make the payment.

The term "qualified bonds" means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued prior to May 4, 1955, or issued thereafter and qualified as provided by law pursuant to Section 27 or Section 28, Article X, of the Constitution of 1908 or pursuant to this section.

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used toward the repayment of state loans. In any year when such [a] levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Subject to the foregoing provisions, the legislature shall have the power to prescribe and to limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

The power to tax for the payment of principal

and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made to school districts, shall be without limitation as to rate or amount.

All rights acquired under Sections 27 and 28, Article X of the Constitution of 1908, by holders of bonds heretofore issued, and all obligations assumed by the state or any school district under these sections, shall remain unimpaired.

Sec. 17. No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

Sec. 18. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

This section shall not be construed to prohibit the investment of public funds until needed for current requirements [or the investment of public employee retirement system funds], as [may be] provided by law.

Sec. 19. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation[,] . [except that] Funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law[;] . [and except that] Endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

Sec. 20. No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money shall be deposited in any bank in excess of 50 percent of the capital and surplus of such bank. Any bank receiving deposits of state money shall show the amount of state money so deposited as a separate item in all published statements.

Sec. 21. The legislature shall provide by law for the annual accounting for all public moneys, state and local, and may [also] provide by law for interim accounting.

The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.

Sec. 22. PROCEDURES FOR THE EXAMINATION AND ADJUSTMENT OF CLAIMS AGAINST THE STATE SHALL BE PRESCRIBED BY LAW.

Sec. 23. All financial records, accountings, audit reports and other reports of public moneys shall be public records and open to inspection. A statement of all revenues and expenditures of public moneys shall be published and distributed annually, as [prescribed] PROVIDED by law.

Sec. 24. The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby.

Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be [usable] USED for financing unfunded accrued liabilities.

ARTICLE X
PROPERTY

Sec.		Com. Proposal
1.	Married Women	63a
2.	Eminent Domain	67a
3.	Homestead Exemption	12a
4.	Escheats	74a
5.	State Lands	129a
6.	Alien Rights	43a

Article X
Property

Sec. 1. The real and personal estate of every woman, acquired before marriage, and all property to which she may afterwards become entitled by gift, grant, inheritance or devise, shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be devised or bequeathed by her as if she were unmarried.

Sec. 2. Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law.

Sec. 3. A homestead in the amount of not less than $3,500[.00] and personal property of every resident of this state in the amount of not less than $750[.00], as defined by law, shall be exempt from forced sale on execution or other process of any court. Such exemptions shall not extend to any lien thereon excluded FROM EXEMPTION by law.

Sec. 4. Procedures [for the examination and adjustment of claims against the state and procedures] relating to escheats and to the custody and disposition of escheated property shall be prescribed by law.

Sec. 5. The legislature shall have general supervisory jurisdiction over all state owned lands useful for forest preserves, game areas and recreational purposes; shall require annual reports as to such lands from all departments having supervision or control thereof; and shall by general law provide for the sale, lease[,] or other disposition of such lands.

The legislature BY AN ACT ADOPTED [by a resolution concurred in] by TWO-THIRDS [2/3]

Explanation—Matter within [ ] is stricken, matter in capitals is new.

of the members elected to and serving in each house may [from time to time declare] DESIGNATE any part of such lands AS [to be] a state land reserve. [and may remove lands from such classification.] No lands in the state land reserve may be REMOVED FROM THE RESERVE, sold, leased or otherwise disposed of except by an act of the legislature.

Sec. 6. Aliens who are residents of this state shall enjoy the same rights and privileges in property as citizens of this state.

ARTICLE XI
PUBLIC OFFICERS AND EMPLOYMENT

Sec.		Com. Proposal
1.	Oath of Office	25a
2.	Terms of Office	61a
3.	Extra Compensation	62a
4.	Custodian of Funds, Accounting	55a
5.	Classified Civil Service, creation	22a
6.	Civil Service Commission	22a
7.	Commission to make rules and fix compensation	22a
8.	Increases in Compensation	22a
9.	May abolish positions	22a
10.	Commission to recommend increases to governor and legislature	22a
11.	Commission to receive appropriations	22a
12.	Violations of Civil Service Article	22a
13.	Civil Service, Local Government, county	76a, 81m
14.	Impeachment	42a, 42b, 42c, 42d
15.	Removal of Elected Officers	42e

Article XI
Public Officers and Employment

Sec. 1. [Members of the legislature and] All officers, LEGISLATIVE, executive and judicial, [shall,] before [they enter] ENTERING upon the duties of their respective offices, SHALL take and subscribe the following oath or affirmation: ["]I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of ..... according to the best of my ability.["] No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.

Sec. 2. The terms of office of elective state officers, members of the legislature[,] and JUSTICES AND judges of courts of record shall begin at [12:00] TWELVE o'clock noon on the first day of January next succeeding their election, except as otherwise provided in this constitution. The terms of office of county officers shall begin on the first day of January next succeeding their election, except as otherwise provided by law.

Sec. 3. Neither the legislature nor any political subdivision of this state shall grant or authorize extra compensation to any public officer, agent or contractor after the service has been rendered or the contract entered into.

Sec. 4. No person having custody or control of public moneys shall [have a seat in] BE A MEMBER OF the legislature, [n]or be eligible to any office of trust or profit under this state, until he shall have made an accounting, as provided by law, of all sums for which he may be liable.

Sec. 5. The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the [chief] PRINCIPAL executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legislature, employees of the state institutions of higher education, all persons in the armed forces of the state, [8] EIGHT exempt positions in the office of the governor, and within each principal department, when requested by the department head, [2] TWO other exempt positions, one of which shall be policy-making. The civil service commission may exempt [3] THREE additional positions of a policy-making nature within each principal department.

Sec. 6. The civil service commission shall be non-salaried and shall consist of [4] FOUR persons, not more than [2] TWO of whom shall be members of the same political party, appointed by the governor for TERMS OF [8] EIGHT yearS, [overlapping terms.] NO TWO OF WHICH SHALL EXPIRE IN THE SAME YEAR.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

Sec. 7. The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

No person shall be appointed to or promoted in the classified service who has not been certified BY THE COMMISSION as qualified for such appointment or promotion [by the commission]. No appointments, promotions, demotions or removals in the classified service shall be made for

partisan, racial or religious considerations.

Sec. 8. Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. Within 60 calendar days following such transmission, the legislature may, by a [2/3] TWO-THIRDS vote of the members elected to and serving in each house, reject, reduce, or modify increases in rates of compensation authorized by the commission[:]. [Provided however,] The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year.

Sec. 9. The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition of a position shall have a right of appeal to the commission through established grievance procedures.

Sec. 10. The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

Sec. 11. To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within [6] SIX months after the conclusion of each fiscal year the commission shall return to the state treasury all [funds] MONEYS unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

Sec. 12. No payment for personal services shall be made or authorized until the provisions of this [article] CONSTITUTION PERTAINING TO CIVIL SERVICE have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

Sec. 13. BY ORDINANCE OR RESOLUTION WHICH SHALL NOT TAKE EFFECT UNTIL APPROVED BY A MAJORITY OF THE ELECTORS VOTING THEREON, each city, village, township, county, school district[,] and other governmental unit[s] or authorit[ies]Y [performing the same or similar functions] may[, by ordinance or resolution of the governing body which ordinance or resolution shall not take effect until approved by a majority of the electors voting thereon,] establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services [to them] TO ANY SUCH UNIT on a reimbursable basis.

[The board of supervisors of any county with a population of 1,000,000 or more shall have the power by ordinance to establish a merit system for county employment. The ordinance or any amendments thereto shall not take effect until approved by a majority of the electors voting thereon.]

Sec. 14. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected and serving shall be necessary to direct an impeachment.

When an impeachment is directed, the house of representatives shall elect [3] THREE of its members to prosecute the impeachment.

Every impeachment shall be tried by the senate immediately after the final adjournment of the legislature. The senators shall take an oath or affirmation truly and impartially to try and determine the impeachment according to the evidence. When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside.

No person shall be convicted without the concurrence of [2/3] TWO-THIRDS of the senators elected and serving. Judgment in case of conviction shall not extend further than removal from office, but the person convicted shall be liable to punishment according to law.

No judicial officer shall exercise ANY OF THE FUNCTIONS OF his office after an impeachment is directed until he is acquitted.

Sec. 15. Any elected officer of a political subdivision may be removed from office in the manner and for the causes [prescribed] PROVIDED by law.

ARTICLE XII
AMENDMENT & REVISION

Sec.		Com. Proposal
1.	By Legislature	64a
2.	By Petition of Electors	65a
3.	Constitutional Convention	66a

Explanation—Matter within [ ] is stricken, matter in capitals is new.

Article XII
Amendment & Revision

Sec. 1. Amendments to this constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by [2/3] TWO-THIRDS of the members elected to and serving in each house on a [yea and nay] vote WITH THE NAMES AND VOTE OF THOSE VOTING entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct. If a majority of electors voting on [such] a proposed amendment approve [such amendment,] THE SAME, it shall become part of the constitution and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved.

Sec. 2. Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected, or 300,000 registered electors, whichever is less. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. The person authorized by law to receive such petition[,] shall[,] upon its receipt[,] determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next GENERAL election. [at which any state officer is to be elected.] Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot [used in such election] shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.

If the proposed amendment is approved by a majority of the electors voting on the question, the proposed amendment shall become part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. IF TWO OR MORE AMENDMENTS APPROVED BY THE ELECTORS AT THE SAME ELECTION CONFLICT, THAT AMENDMENT RECEIVING THE HIGHEST AFFIRMATIVE VOTE SHALL PREVAIL.

Sec. 3. At the general election to be held in the year 1978, and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than [4] FOUR months after the proposal was certified as approved, the electors of each [house of] representative[s] district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate. The delegates so elected shall convene at the SEAT OF GOVERNMENT [capital city] on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. The governor shall appoint a qualified resident of the same district to fill a vacancy in the office of any delegate. [If the legislature shall determine that delegates shall be elected on a partisan basis, the governor shall appoint a qualified resident of the same district and of the same party.] WHO SHALL BE A MEMBER OF THE SAME PARTY AS THE DELEGATE VACATING THE OFFICE IF THE LEGISLATURE PROVIDES FOR PARTISAN ELECTION OF DELEGATES. The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, WITH THE NAMES AND VOTE OF THOSE VOTING [the yeas and nays being] entered in the journal. Any proposed constitution or amendments adopted

by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

SCHEDULE AND TEMPORARY PROVISIONS

Sec.		Com. Proposal
1.	Attorney general to recommend necessary laws	44d
2.	Writs, actions, claims, etc. remain effective	44b
3.	Officers continue their duties	44c and 71g
4.	Terms of officers elected November, 1962	68b
5.	Terms of governor, etc. elected 1964. When 4 year terms begin	80 and 71a
6.	Senate Apportionment	80
7.	Supreme Court, reduction to seven justices	91a
8.	Judges of Probate, eligible for re-election	96f
9.	Overlapping terms for judiciary	96j
10.	State Board of Education	47a
11.	Boards of Control	98c
12.	Educational Boards	
13.	Initial allocation	71b
14.	Contractual obligations remain in force	6a
15.	Mackinac Bridge refunding	23b
16.	Constitution submitted to people, when	68a
17.	Constitution submitted to people, manner	68c

TO INSURE THE ORDERLY TRANSITION FROM THE CONSTITUTION OF 1908 TO THIS CONSTITUTION THE FOLLOWING SCHEDULE IS SET FORTH TO BE EFFECTIVE FOR SUCH PERIOD AS ITS PROVISIONS REQUIRE.

Sec. 1. The attorney general [of the state] shall recommend to the legislature AS SOON AS PRACTICABLE [at the commencement of the next session] such changes AS MAY BE NECESSARY [in existing laws as may be deemed necessary] to adapt EXISTING LAWS [the same] to this constitution.

Sec. 2. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights [of individuals, partnerships, bodies corporate, and of this state or any subdivision or agency thereof] existing on the effective date [hereof] OF THIS CONSTITUTION shall continue unaffected except as modified in accordance with the provisions of this constitution.

Sec. 3. Except as otherwise provided in this constitution, all officers filling any office by election or appointment shall continue to exercise THEIR POWERS AND [the] duties [thereof, according to their respective commissions or appointments,] until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or the laws enacted pursuant thereto.

No provision of this constitution, or of law or of executive order authorized by this constitution shall shorten the term of any person elected to state office at a statewide election ON [in] or prior to THE DATE ON WHICH THIS CONSTITUTION IS SUBMITTED TO A VOTE. [November, 1962.] In the event the duties of any [of] such officers shall not have been ABOLISHED OR incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated OR ABOLISHED.

Sec. 4. All officers elected [on the Tuesday after the first Monday of November, 1962] AT THE SAME ELECTION THAT THIS CONSTITUTION IS SUBMITTED TO THE PEOPLE FOR ADOPTION [under the 1908 Constitution as amended and existing laws] shall take office [on and after the first day of January, 1963,] and complete the term to which they were elected UNDER THE 1908 CONSTITUTION AND EXISTING LAWS AND CONTINUE TO SERVE UNTIL THEIR SUCCESSORS ARE ELECTED AND QUALIFIED PURSUANT TO THIS CONSTITUTION OR LAW.

Sec. 5. Notwithstanding any other provision in this constitution, the governor, THE lieutenant governor, THE secretary of state [and], THE attorney general, AND state senators shall be elected at the general election in 1964 to serve for [2] TWO year terms beginning on the first day of January next succeeding their election. The first [4 year] election OF SUCH OFFICERS FOR FOUR-YEAR TERMS under this constitution shall be held at the general election in 1966.

Sec. 6. The state shall be districted for the purpose of electing senators in accordance with the provisions of [Committee Proposal 80, section a,] ARTICLE IV, SECTION 2 after the official publication of the total population count of the 1970 decennial federal census. Until the [re]apportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution[, as amended,] shall remain intact except that upon the adoption of this constitution each of the counties of Kent, Genesee, Macomb and Oakland shall be divided by the apportionment commission into [2] TWO senatorial districts and Wayne county into [8] EIGHT senatorial districts in accordance with this constitution.

Sec. 7. [A vacancy hereafter created as the result of the death, retirement or resignation of one incumbent justice shall not be filled.]

NOTWITHSTANDING THE PROVISIONS OF THIS CONSTITUTION THAT THE SUPREME COURT SHALL CONSIST OF SEVEN JUSTICES IT SHALL CONSIST OF EIGHT JUSTICES UNTIL THE TIME THAT A VACANCY OCCURS AS A RESULT OF DEATH, RETIREMENT OR RESIGNATION OF A JUSTICE. THE FIRST SUCH VACANCY SHALL NOT BE FILLED.

Sec. 8. Any [supreme court justice, circuit judge,] judge of probate serving [at] ON the [time this constitution becomes] effective DATE OF THIS CONSTITUTION may serve the remainder of the term and be eligible TO SUCCEED HIMSELF for election [to his present office] regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

Sec. 9. The provisions of [this] Article VI providing that terms of JUDICIAL offices shall not all expire at the same time, shall be implemented BY LAW PROVIDING THAT at the next election for such offices [by legislation providing for elections] JUDGES SHALL BE ELECTED for terms of varying length, none of which shall be shorter than the [basic] REGULAR term provided for the office.

Sec. 10. THE MEMBERS OF THE STATE BOARD OF EDUCATION PROVIDED FOR IN ARTICLE VIII SECTION 3 SHALL FIRST BE ELECTED AT THE FIRST GENERAL ELECTION AFTER THE EFFECTIVE DATE OF THIS CONSTITUTION FOR THE FOLLOWING TERMS: TWO SHALL BE ELECTED FOR TWO YEARS, TWO FOR FOUR YEARS, TWO FOR SIX YEARS, AND TWO FOR EIGHT YEARS AS PRESCRIBED BY LAW.

THE STATE BOARD OF EDUCATION PROVIDED FOR IN THE CONSTITUTION OF 1908 IS ABOLISHED AT TWELVE O'CLOCK NOON JANUARY 1 OF THE YEAR FOLLOWING THE FIRST GENERAL ELECTION UNDER THIS CONSTITUTION AND THE TERMS OF MEMBERS THEREOF SHALL THEN EXPIRE.

Sec. 11. THE PROVISIONS OF THIS CONSTITUTION PROVIDING FOR MEMBERS OF BOARDS OF CONTROL OF INSTITUTIONS OF HIGHER EDUCATION AND THE STATE BOARD OF PUBLIC COMMUNITY AND JUNIOR COLLEGES SHALL BE IMPLEMENTED BY LAW. THE LAW MAY PROVIDE THAT THE TERM OF EACH MEMBER IN OFFICE ON THE DATE OF THE VOTE ON THIS CONSTITUTION MAY BE EXTENDED, AND MAY FURTHER PROVIDE THAT THE INITIAL TERMS OF OFFICE OF MEMBERS MAY BE LESS THAN EIGHT YEARS.

Sec. 12. THE PROVISIONS OF THIS CONSTITUTION INCREASING THE NUMBER OF MEMBERS OF THE BOARD OF TRUSTEES OF MICHIGAN STATE UNIVERSITY AND OF THE BOARD OF GOVERNORS OF WAYNE STATE UNIVERSITY TO EIGHT, AND OF THEIR TERMS OF OFFICE TO EIGHT YEARS, SHALL BE IMPLEMENTED BY LAW. THE LAW MAY PROVIDE THAT THE TERM OF EACH MEMBER IN OFFICE ON THE DATE OF THE VOTE ON THIS CONSTITUTION MAY BE EXTENDED ONE YEAR, AND MAY FURTHER PROVIDE THAT THE INITIAL TERMS OF OFFICE OF THE ADDITIONAL MEMBERS MAY BE LESS THAN EIGHT YEARS.

Sec. 13. The initial allocation of departments by law pursuant to Article V, Section 2 shall be completed within two years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make the initial allocation.

Sec. 14. Contractual obligations of the state incurred pursuant to the constitution of 1908 [as amended] shall continue to be obligations of the state.

For the retirement of [such] notes and bonds [as may have been] issued under Section 26 of Article X of the 1908 constitution, there is hereby appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each [such] year.

Sec. 15. [Provided however, That] The legislature [is authorized to provide by general law adopted] by a vote of [2/3] TWO-THIRDS of the members elected to and serving in each house MAY PROVIDE THAT THE STATE MAY [for the] borrow[ing of] money AND MAY PLEDGE ITS FULL FAITH AND CREDIT for [the] refunding [of] any bonds issued by the Mackinac Bridge Authority[,]AND at [which] THE time OF REFUNDING the Mackinac Bridge Authority [Act] shall be [repealed] ABOLISHED and the operation of the bridge SHALL be assumed by the state highway department. THE LEGISLATURE MAY IMPLEMENT THIS SECTION BY LAW.

Sec. 16. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the Tuesday after the first Monday of November, 1962. It shall be the duty of the secretary of state forthwith to give notice of such submission to all other officers required to give or publish any notice in regard to A GENERAL [such] election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.

Sec. 17. Every registered elector may vote

on the adoption of the constitution. The board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office, the words: ["] Shall the revised constitution be adopted? ( ) Yes. ( ) No. ["] All votes cast at THE [this] election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. [Should] IF the revised constitution so submitted receiveS more votes in its favor than were cast against it, it shall be the supreme law of the state on and after the first day of January OF THE YEAR FOLLOWING ITS ADOPTION [,1963, except as otherwise provided in this constitution].

Explanation—Matter within [ ] is stricken, matter in capitals is new.

ONE HUNDRED THIRTY-FOURTH DAY

Tuesday, May 8, 1962, 9:00 o'clock a.m.

PROCEEDINGS

VICE PRESIDENT HUTCHINSON: The convention will **come to order.** The delegates will please take their seats.

The **invocation** today will be delivered by Dr. Ralph J. Danhof, executive secretary and stated clerk of the Christian Reformed Church. Dr. Danhof is from Grand Rapids and is an uncle of Delegate Robert J. Danhof.

REVEREND DANHOF: Let us unite our hearts in prayer. We thank Thee, heavenly Father, that we may call upon Thee. We thank Thee that Thou hast given us a state in which we may live and also exercise the gifts of freedom. We pray that Thou wilt preserve these freedoms for us not only as the state of Michigan but as the United States of America.

We pray, Lord our God, that Thou wilt bless this constitutional convention. Bless these delegates in all of their efforts and grant that they may truly be servants of Thine, for therein lieth our greatness, when we may serve Thee and our fellow men. We beseech Thee that Thou wilt cause Thy favor to rest upon each and every delegate. Use them mightily to promote the cause of justice and freedom for men.

Pardon graciously our sins and favor us as a nation among the nations of the world and cause us to be a good example unto all of them. Pardon all that we do contrary to Thy heavenly will, and may Thy law serve as the guide of true worship; to love Thee above all else and our fellow men as ourselves. In Christ's name we ask it. Amen.

VICE PRESIDENT HUTCHINSON: The secretary will take the **roll call.** All those present will vote aye. Have you all voted? The secretary will record the roll.

SECRETARY CHASE: Mr. President, 127 delegates; a quorum is present.

Prior to today's session, the secretary received the following requests for leave: Mr. Ford, temporarily, from this morning's session; and Mr. Nisbet, from today's session.

VICE PRESIDENT HUTCHINSON: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. Ford, Hood, Liberato and Nisbet.

Absent without leave: Miss Andrus, Mrs. Hatcher, Messrs. Hubbs, Murphy, Norris and Ostrow.

VICE PRESIDENT HUTCHINSON: Without objection, the delegates are excused.

[During the proceedings the following delegates entered the chamber and took their seats: Miss Andrus, Mrs. Hatcher, Messrs. Murphy, Hubbs, Ford, Ostrow and Norris.]

Reports of standing committees.

SECRETARY CHASE: No committee reports, Mr. President.

VICE PRESIDENT HUTCHINSON: Communications from state officers.

SECRETARY CHASE: None.

VICE PRESIDENT HUTCHINSON: **Motions and resolutions.**

SECRETARY CHASE: Messrs. Van Dusen and Cudlip offer **Resolution 97,** A resolution to amend the convention rules to provide for possible amendments to the proposed constitution on the occasion of the sine die adjournment session of the convention.

Following is Resolution 97 as offered:

Whereas, When the convention adjourns in May, it will stand adjourned until Wednesday, August 1; and

Whereas, During the intervening period a legal determination may alter the date of submission of the constitution to the people as provided in the schedule; and

Whereas, During said period the committee on style and drafting may discover technical changes which should be made in the new document; now therefore be it

Resolved, That on the occasion of the sine die adjournment session August 1, 1962, amendments to the proposed constitution not affecting its substance may be offered by the committee on style and drafting, and amendments may be offered to the schedule to implement any intervening determination respecting the time of submission of the proposed constitution to the electors, but no other amendment may be offered. No such amendment shall be adopted unless approved by a majority of the delegates elected to and serving in the convention, voting by the yeas and nays.

VICE PRESIDENT HUTCHINSON: Referred to the committee on rules and resolutions.

SECRETARY CHASE: Mr. Van Dusen offers **Resolution 98,** A resolution to provide for the time and place of the sine die adjournment session, and for notice thereof.

Following is Resolution 98 as offered:

Resolved, That when the convention adjourns today it stand adjourned until Wednesday, August 1, 1962, at 10:00 o'clock a.m., when it shall convene at a place to be designated by the president and the 3 vice presidents of the convention; and be it further

Resolved, That the officers shall determine the place of such August 1, 1962, session and the secretary shall advise each delegate thereof in writing not later than July 16, 1962.

VICE PRESIDENT HUTCHINSON: Referred to the committee on rules and resolutions.

SECRETARY CHASE: Mr. Van Dusen also offers **Resolution 99,** A resolution of thanks and appreciation to the citizens research council of Michigan, incorporated.

Following is Resolution 99 as offered:

Whereas, The citizens research council has issued a series of excellent research studies on matters relating to the work of this convention and has freely provided research staff and time to convention activities; and

Whereas, These publications and research efforts have been extensively used by committees and by individual delegates as reliable factual sources throughout all phases of the work of this convention; and

Whereas, This research activity by a privately supported organization is deemed by this convention to have been of material aid to its deliberations; now therefore be it

Resolved, That the Michigan Constitutional Convention of 1961 hereby records and expresses its sincere thanks and cordial appreciation to the citizens research council of Michigan for its substantial interest and effort in this momentous public affair; and be it further

Resolved, That a suitably printed copy of this resolution be transmitted to the president of the board of directors of the citizens research council of Michigan, incorporated.

VICE PRESIDENT HUTCHINSON: Referred to the committee on rules and resolutions.

SECRETARY CHASE: That is all the resolutions on file, Mr. President.

VICE PRESIDENT HUTCHINSON: **Third reading.**

SECRETARY CHASE: On the third reading calendar this morning, **article V,** the executive branch, of the third reading document.

Faxon	Murphy	Young
Follo	Nord	Youngblood
Ford		

Nays—72

Andrus, Miss	Hannah, J. A.	Pugsley
Anspach	Haskill	Radka
Batchelor	Hatch	Rajkovich
Beaman	Heideman	Richards, J. B.
Bentley	Higgs	Romney
Blandford	Howes	Rood
Bonisteel	Hubbs	Rush
Brake	Hutchinson	Seyferth
Butler, Mrs.	Iverson	Shackleton
Cudlip	Judd, Mrs.	Shaffer
Danhof	Karn	Sharpe
Dehnke	King	Sleder
Dell	Knirk, B.	Staiger
Donnelly, Miss	Koeze, Mrs.	Sterrett
Doty, Dean	Kuhn	Stevens
Durst	Lawrence	Thomson
Elliott, A. G.	Leppien	Tubbs
Everett	Martin	Turner
Farnsworth	McLogan	Tweedie
Figy	Millard	Upton
Gadola	Mosier	Van Dusen
Goebel	Page	Wanger
Gover	Pollock	White
Habermehl	Powell	Woolfenden

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Donald Doty, the yeas are 61; the nays are 72.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Mr. Powell offers the following amendment:

1. Amend article V, section 28 (column 2, line 30) after "governor,", by inserting "by and"; so the language will then read:

> There is hereby established a civil rights commission which shall consist of eight persons, not more than four of whom shall be members of the same political party, who shall be appointed by the governor, by and with the advice and consent of the senate....

VICE PRESIDENT HUTCHINSON: Is Mr. Powell in the room? Mr. Powell.

MR. POWELL: Mr. President and fellow delegates, I am sure this is not a substantive change. It does not make an iota of difference whether we add these words in there or not, but in our committee on style and drafting we were trying to standardize this phraseology and in this place, apparently, these 2 words were overlooked.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Powell. Mr. Martin.

MR. MARTIN: No objection to that, Mr. President, to that change.

VICE PRESIDENT HUTCHINSON: All those in favor will say aye. Opposed will say no.

The amendment is adopted. That is all of the amendments, is it? Are there any further amendments?

SECRETARY CHASE: That is all.

VICE PRESIDENT HUTCHINSON: The question is upon the passage of article V —

MR. MARSHALL: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, it is with a great deal of reluctance that I feel compelled to have to speak against the adoption of this article and to urge a no vote. This is brought about, of course, by the refusal of the majority of the delegates in this convention to divide the questions where we could separate the rotten apples from the good ones, so we would have an opportunity to vote on those that we were in accord on and to vote against those that we were not in accord on; but, by the fact that this action was taken, many objectionable features are being crammed down the throats of the minority delegates to this convention.

I would like to take up a few words of the very esteemed and world renowned political scientist from Ann Arbor. He made the statement last night that it was incomprehensible — I think in debate on the floor last night — that it was incomprehensible to him how Delegate Downs or the minority could arrive at a decision to vote no after we had had the deliberative process of give and take in free debate. I want to say to this convention and for the record that precisely what we have not had is free debate in this deliberative body. You heard on the floor here a moment ago by Mr. Brake, Mr. Martin and others, discussion about the compromise, the agreement, the accommodation, the deal — call it what you may — that this was a part of it, and urging the delegates to stick to the deal that was worked out by the majority party. I can say to this convention —

MR. WALKER: Mr. President, a point of order, please.

VICE PRESIDENT HUTCHINSON: State the point.

MR. WALKER: I think it is bad enough that the delegates sell out their principles and convictions with a deal and a compromise, or what have you, but to have the floor of this convention sullied and the record of it sullied by further talk of such a deal is not right. (laughter)

VICE PRESIDENT HUTCHINSON: You may proceed, Mr. Marshall.

MR. MARSHALL: Well, as I was saying when I was so rudely interrupted — call it what you may and, whether you have it in the record or you don't have it in the record, I think the people of the state are aware of what has taken place and I refer to it as an accommodation rather than a deal or an agreement.

There are features in this article that we were in accord on, many of them, the executive reorganization, the term of office for the governor, for the ad board people, the governor and the lieutenant governor running as a team. But on this question of the selection of the ad board, where we have 5 different ways of selecting our state officials as a result of the package deal that was worked out off the floor of this convention, it makes no sense to me whatsoever and I don't know of any precedent anywhere else in the country for this type of a hodgepodge that we have created here. I do not think that the delegates can justify the establishment of this so called highway commission, for one.

As I stated earlier in this convention, I am opposed to any further erosion of our democratic processes and I think the people of this state, the electorate, are intelligent enough to make their own selections at the ballot box when it comes time for selecting those who will serve them in government. I think we are making a grave mistake — a very serious and grave mistake — because there was no great demand on the part of the people of this state prior to the calling of this constitutional convention, or since, to do away with or to take away the right of the people to elect their state highway commissioner and other state officers. I think that this article — and this is why I am speaking against it and urging a no vote — makes a mockery of democracy, and I think if the delegates who are opposed to what was done, in particular as it relates to the highway commission, should vote no on this also, then we would have a chance to correct it and to take the necessary steps to correct these evils.

I can't agree with Dr. Pollock on the statement that he made. If we had had free debate on the floor of this convention on this question then I could go along with him, but I cannot go along with the statement, I cannot go along with what has been done, and the very fact — I know one of the delegates in this convention said to me when I asked him the question: why do we have to buy all of these rotten apples? Why can't we separate those we are in accord on and then debate only on those that are objectionable and those that we have violent disagreement on? I think the statement was that, obviously, the Republican party has come to the conclusion that the only way they can retain control is through the constitution because they don't think the people will accept their philosophy at the polls. Thank you.

VICE PRESIDENT HUTCHINSON: The secretary informs the Chair that there is one additional amendment, which is on the secretary's desk, which the secretary will now report.

SECRETARY CHASE: Mr. Wanger offers the following amendment to article V:

1. Amend article V, section 27 (second column, line 9) after "state" by striking out the comma; so the language will then read, ". . . and such other public works of the state as provided by law."

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: Briefly, Mr. President and fellow delegates, this is a technical amendment. It is designed to perfect this last line and to remove that comma which could cause interpretation difficulties later on. It is felt that this is a section where we certainly should make it entirely clear and set it out with the clear intent that the phrase "as provided by law" merely modifies "and such other public works of the state." I yield at this time to Mr. Martin.

VICE PRESIDENT HUTCHINSON: Mr. Martin.

MR. MARTIN: Mr. President, we have no objection to this amendment.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Wanger. Mr. Staiger.

MR. STAIGER: I would ask a question of Mr. Wanger, if I could, through the Chair.

VICE PRESIDENT HUTCHINSON: If the gentleman cares to respond.

MR. STAIGER: Mr. Wanger, it seems to me that by leaving that comma in there, "as provided by law" would then modify "state trunkline highways and appurtenant facilities." Now for what reason do you want to just make that modify the last clause? I think we need flexibility in all 3 of these terms.

MR. WANGER: Well, it could be interpreted as going much farther than the words "state trunkline highways and appurtenant facilities." It could be interpreted as modifying the entire paragraph, since the entire paragraph is just one sentence and that is put on at the end. And that, of course, was clearly not the intent at any time. We have no inconvenience arising — even if it would not modify "state trunkline highways and appurtenant facilities" — because of the flexibility which is given here to "such other public works of the state."

MR. STAIGER: Well, it just seems to me that there is no harm done in letting that phrase modify that whole first clause and I would suggest that we leave it that way.

MR. WANGER: You want to have "as provided by law" modify the rest of the sentence; is that correct?

MR. STAIGER: Yes.

MR. WANGER: You would. Well, it would seem to me that that would entirely defeat the intent of the whole section, because that would mean it would not come into effect at all unless it were provided by law. This would mean that the section was not self executing. The whole purpose here is to have it be self executing and, therefore, I strongly urge you to vote for this amendment, to remove this difficulty.

It may be just a comma, but when we are writing a constitution a comma can make the difference between accomplishing what you intend and not accomplishing it, and that has been so interpreted in many cases in the past. So I strongly urge you to vote for this, to make the intent of this convention clear and, frankly, to avoid the interpretation which Delegate Staiger has suggested he would prefer.

MR. STAIGER: Do I still retain the floor, Mr. President?

VICE PRESIDENT HUTCHINSON: Yes.

MR. STAIGER: Well, using Mr. Wanger's interpretation, it would then read, "There is hereby established a state highway commission . . . as provided by law. Then it goes on to explain exactly who would be on the commission. I see no danger in that area. I think it is important to leave some flexibility in these words "all state trunkline highways and appurtenant facilities" and, for that reason, I think that we should leave the comma in there if it will give this interpretation of modifying those terms.

VICE PRESIDENT HUTCHINSON: Mr. William Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, I would recommend that you defeat the Wanger amendment. We have, for the first time, written into this constitution the term "trunkline highways." Now this is already statutorily defined and we don't know what they are going to say a "trunkline highway" is, and if you adopt the Wanger amendment, we have got to go on in this constitution and define what we mean by a "trunkline highway." We cannot even leave that definition to the state law any more. Then we will have to go into this constitution and define "appurtenant facilities" because if we adopt the Wanger amendment they cannot define that by law. Then you would limit it to "public works" which would be the only thing that could be provided by law.

I think that the comma should stay so that the legislature can classify and provide and define what are "state trunkline highways," what are "appurtenant facilities" and, certainly, there is no problem; they will not give the state highway department anything that is not either a public work, a highway or appurtenant facility.

VICE PRESIDENT HUTCHINSON: Mrs. Cushman.

MRS. CUSHMAN: No.

VICE PRESIDENT HUTCHINSON: Mr. Stafseth.

MR. STAFSETH: Mr. President and fellow delegates, we have had a lot of discussion about this comma and what it does, but I will say this: that whether the comma, from a grammatical standpoint, should be in or not, in or out as far as the highway people are concerned, where it says "provided by law" as far as the past precedent, the statutes of the state describe where the trunklines are, they describe what a "trunkline" is, and if you leave the ability or this flexibility to define these things for the legislature, that is as it should be.

Now I would think if you took the comma out, it would only modify as to public works. Now, I am not enough of an English student to know that, but it has always been defined that way and for a very good purpose: one of the reasons that they want to specify what state trunklines are is so you don't get into the situation of having practically every road a state trunkline and diluting the whole fund. Actually, about 10 per cent of the roads in Michigan are state trunklines. About half the money is provided for the state trunklines and the reason for that is that 80 per cent of the traffic uses the state trunklines, so that you want to protect against a dilution of the funds for constructing the main arteries in the state.

VICE PRESIDENT HUTCHINSON: Mr. Wanger.

MR. WANGER: Just briefly, the objection as raised to this amendment has merely to do with the words "state trunkline highways and appurtenant facilities." Now it seems to me that there is no danger of a restrictive interpretation here because of the fact that the legislature is, in the next clause, given the right to confer jurisdiction over "such other public works of the state;" so there is no difficulty to speak of, in that section, with that problem but there is a big problem if you take the words "as provided by law" and have them modify the entire paragraph. There is a serious problem, the problem that the legislature, because of some interest group's activities over there or because of a great campaign, may decide not to provide for a highway commission at all, whether or not the constitution sets it up, because it is obvious that unless otherwise provided you cannot mandamus the legislature. Now that is the interpretation problem we are getting into and this amendment will clear it up. The other interpretation problem which the amendment would allegedly create is far less serious.

MR. DEHNKE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: For the reason stated by Mr. William Hanna, I hope this amendment will not be adopted. I think the comma should stay in to reflect the intent of the convention.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Wanger. All those in favor will say aye. All those opposed will say no.

The amendment is not adopted. The question now is upon the passage of article V. The Chair will recognize Mr. Stevens.

MR. STEVENS: Mr. President and fellow delegates, I suppose it is a matter of opinion and I will so stipulate. Regarding the remarks of Mr. Marshall, his term "objectionable" and so forth, it occurs to me that, in the opinion of many of us, those things which he thinks are objectionable are both desirable and wise and also good. So it becomes a matter of terminology and opinion. I cannot understand why he thinks that what he considers unnecessary or objectionable is necessarily so considered by everybody else.

VICE PRESIDENT HUTCHINSON: Mr. Sterrett.

MR. STERRETT: Mr. President and delegates, the executive article that we are about to vote on, I feel, is a great improvement over the present constitution, the 1908 constitution. I believe we have put the responsibility where it belongs. We have

properly made the various operations of state government accountable to the governor with the correct type of checks and balances by the legislature. This is definitely an improvement over the 1908 constitution. The only thing any delegate has to do here is to read the present constitution and he can see the improvement for himself.

The objection, mainly, that I have heard about the executive article is the advice and consent of the senate. We have talked about the malapportioned legislature. The committee on legistive organization has taken care of the so called malapportioned legislature, as I see it, and anybody that would go out and campaign against this new document would be completely ridiculous because it is an improvement over the 1908 constitution; and if they did campaign against this document they would not be telling the people the truth and they would not be serving the people in a just manner as a delegate of this constitutional convention.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I doubt that further debate is going to be significantly contributive. I would move to limit it to 5 minutes on the article.

MR. DOWNS: May I —

VICE PRESIDENT HUTCHINSON: The Chair has 5 speakers — 6 with Mr. Downs.

MR. DOWNS: May I make a preferential motion —

VICE PRESIDENT HUTCHINSON: Yes.

MR. DOWNS: — that that be 2½ minutes a speaker?

MR. VAN DUSEN: I will accede to Mr. Downs — could you make it 2 minutes? That would make the total 10. (laughter) I would move, Mr. President, to limit debate to 10 minutes, 2 minutes a speaker.

MR. MARSHALL: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: What's the point, Mr. Marshall?

MR. MARSHALL: I object to the official timekeeper and Delegate Downs working out a deal on the floor of this convention. (laughter)

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves that debate be limited to 10 minutes upon the article. All those in favor will say aye. Opposed will say no.

The motion prevails. The Chair recognizes Mr. Garry Brown.

MR. G. E. BROWN: Mr. President and members of the convention, I will not take 2 minutes, but in view of Mr. Marshall's remarks — I think that they should be answered, although there are some things on which I might agree with Mr. Marshall — I would say this: that his criticism of accommodations and deals, or whatever you want to call them, and his assumption of a "holier than thou" attitude is rather nauseating, especially in view of the accommodation that was made off the floor on the issue that was before us last evening. Deals, accommodations, what have you, as undesirable as they may be, are better made by delegates to this convention than effected by legislative lobbyists from across the street.

VICE PRESIDENT HUTCHINSON: Mr. Blandford.

MR. BLANDFORD: Mr. President and fellow delegates, Delegate Marshall, in urging a no vote on article V, I feel, wandered far afield from the actual article — which, of course, has been his custom. I urge a yes vote on article V and will wander somewhat afield myself. I think we have seen on the floor of this convention the last 7½ months an old political trick, and that is to accuse the other fellow of something that you are guilty of yourself. We have seen the Democrats, the minority party on this floor, aghast that the Republicans have made a deal. They have been dealing ever since this convention started. All we have to look at is the search and seizure vote and every ballot that we have had and we know where the dealing has been taking place.

I think if the Republicans have been guilty of anything on this floor it is that we have been guilty of restraint. We have listened to the ravings of the Democratic party on practically every item. We have been called the "handmaidens of big business." We have been called "rotten apples." It has been said that we have tried to gag debate — I remember one delegate taking 4 hours to explain his apportionment plan. I remember many hours on search and seizure. As I say, if the Republicans have been guilty of anything it has been that we have been guilty of restraint.

I realize that the minority party cannot understand the workings of the Republican party. Being dominated by one group, they do not have to work together in order to come up with a good conclusion. We don't operate that way. We have many divergent people in the Republican party of which I am proud and of which I am one of them. I certainly hope that the Republican party stays that way —

MR. BINKOWSKI: Point of order.

MR. BLANDFORD: — that we will never be dominated —

MR. BINKOWSKI: Point of order.

MR. BLANDFORD: — and we will work together to make this a great constitution.

VICE PRESIDENT HUTCHINSON: Mr. Binkowski raises a point of order.

MR. BLANDFORD: Thank you.

VICE PRESIDENT HUTCHINSON: The point comes too late. He is all through talking. (laughter) Judge Shaffer.

MR. SHAFFER: Mr. President, I simply want to ask Mr. Martin a question here, if there isn't a mistake in printing in the last line in section 28 of article V, the last sentence, "Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies. . . ." What does "and" mean in there? Do you mean: comma? "Direct," comma, "immediate legal or equitable remedies?" Or appropriate?

VICE PRESIDENT HUTCHINSON: Mr. Martin.

MR. MARTIN: Mr. Shaffer, I don't know what the author of the amendment had in mind by the "and." I assume that the "and" is simply to make it a little more emphatic that there should be some "direct and immediate" legal remedies. I have been in doubt about the effect of this section from the beginning but I don't think it does any harm to the section.

MR. DEHNKE: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Martin has the floor. Do you want to be recognized in the speaking list?

MR. DEHNKE: Yes.

VICE PRESIDENT HUTCHINSON: Mr. Martin is recognized next.

MR. MARTIN: Mr. President, I don't want to say anything more than that this article V contains, in my judgment, some of the very most important provisions in the new constitution and I don't know what the Democrat minority has in mind in consistently recommending that their members vote no on each of these provisions. I assume they intend to offer some provisions of their own and then if those don't pass, I am not sure whether they are proposing to work against the entire constitution or not. But I don't think that a no vote against this entire article can be interpreted in any other way than that you are opposed to the article as a whole.

I certainly would urge the members of the minority to vote their convictions on this particular article of the constitution because it does contain some of the very important provisions. I hope that the recommendations of the leadership of the minority will not be accepted and that the members of the minority will vote as their conscience and their judgment dictate, and not as their leadership requests them to do.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke. Mr. Dehnke passes. Mr. T. S. Brown.

MR. T. S. BROWN: Mr. President and fellow delegates, I should like to add my little part to what Bill Marshall has already said, except in a different vein.

I do not consider that this article represents either a philosophical orientation of any sort or a compromise between philosophical orientations. As a result of having 4 or 5 different ways of selecting the people who will run the administrative branch of our government, we have no internal consistency and no internal integrity within the executive branch. For this particular reason, regardless of politics — whether you are a Republican or a Democrat, whether you consider that this will be a liberal document or a conservative document or a good, efficient document — there is no internal consistency and, there-

fore, this matter must obviously continue in a halting fashion in the years to come.

If this document were completely liberal or completely conservative and if it would articulate, one part with the other, then I would say it at least represents a certain point of view. But since this does not and since it is not by any stretch of the imagination a compromise, I therefore urge the nonadoption of this particular article.

VICE PRESIDENT HUTCHINSON: Miss Hart.

MISS HART: Mr. President and fellow delegates, Mr. Martin should not be surprised at the position that the minority party is taking on this on the floor today because the minority party took the position very consistently on the executive committee. It should be no surprise to anyone — the press, the league of women voters, the observers and fellow members on that committee — of where we stood on these issues.

There seems to be a notion abroad that every morning the Democrats are given a list: 1, 2, 3; a, b, c, and with a yes and a no after each number. This convention blinded the board in the hope that the minority might be confused. The minority has voted consistently, as it would have done had the board been open, because the minority operates on a philosophy of government and there is very little problem as far as we are concerned as to where we stand on these issues; so let's stop talking about unseen forces and let's get on with the business of finishing what we have to do this week.

We do not object to the majority taking the positions they take. This is their right to represent the people who sent them here. By the same token the minority has the same right: to represent the people that sent it here. So let's stop all of the innuendoes and let's get on with the business of this convention and rid ourselves of nonsense. Let's at least be friends while we disagree.

VICE PRESIDENT HUTCHINSON: Mr. Hodges.

MR. HODGES: Mr. President, I, as a member of the minority, plead guilty to the charge that the Democratic party is dominated by one group: the majority of the people in the state of Michigan who have elected the Democratic party for the past 14 years. After the wheeling and dealing that has been done in this convention, I am safely confident that it will be elected for the next 14 years. (applause)

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: Mr. President, when I first came up here and before having come up here, I campaigned on promises that I made to those people who I represent. Now, as far as I am concerned, the campaigning for 1962 opened today when Mr. Blandford got up and said what he did.

I don't mind telling you that so far as I am concerned, I was with the Republican party for 34 years and I watched some of its leaders sit there and decide on how they were going to ruin the state of Michigan so that they could defeat Williams. They didn't care what they did to the state: let's kill Williams off no matter what we do to Michigan.

MR. G. E. BROWN: That's not germane to the issue.

VICE PRESIDENT HUTCHINSON: Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I shall try to speak on the article very briefly —

VICE PRESIDENT HUTCHINSON: Order, please.

MR. DOWNS: First of all, I rise to urge a no vote on this article for 3 specific raesons: the first is that this builds in a conflict between the chief executive and the senate. The people had high hopes that this convention would change that conflict. From looking at the apportionment problem with advice and consent, I believe there will be 12 to 15 Democrats, 26 to 23 Republicans which, with advice and consent and the sudden death, 60 day concept, builds in a conflict if there is a Democrat governor. If there should, within the 50 years, be a Republican governor, he will find the same conflict with the Republican branch that was found before. Secondly, we have discussed elected versus appointed officials. I have favored elected but have recognized the arguments for the appointed. This change in the ad board provides neither elected nor appointed by the governor. The highway commissioner is selected on a hodgepodge system responsible to everybody and nobody and does not have the advantage of either elected or gubernatorial appointment. The treasurer is not appointed by the governor without advice and consent but requires that. And thirdly, on the executive budget part, I just wish to point out that the governor in conjunction with the legislature must cut expenditures on unearmarked items — and this would mean education, welfare, social services that are unearmarked — at the very times when the need was greatest, when state revenue went down. I urge a no vote.

VICE PRESIDENT HUTCHINSON: Time for debate has expired. The question is upon the passage of article V, as amended. All those in favor will vote aye. All those opposed will vote no.

MR. YEAGER: Mr. President, I wish to announce my abstention.

VICE PRESIDENT HUTCHINSON: Mr. Yeager abstains. Have you all voted? Miss Donnelly abstains. If so, the secretary will lock the machine and record the vote. Mr. Shanahan abstains.

The roll was called and the delegates voted as follows:

Yeas—91

Allen	Gust	Powell
Anspach	Hanna, W. F.	Prettie
Barthwell	Hannah, J. A.	Pugsley
Batchelor	Haskill	Radka
Beaman	Hatch	Rajkovich
Bentley	Heideman	Richards, J. B.
Blandford	Higgs	Richards, L. W.
Bonisteel	Howes	Romney
Boothby	Hoxie	Rood
Brake	Hubbs	Rush
Brown, G. E.	Iverson	Seyferth
Butler, Mrs.	Judd, Mrs.	Shackleton
Conklin, Mrs.	Karn	Shaffer
Cudlip	King	Sharpe
Cushman, Mrs.	Kirk, S.	Sleder
Danhof	Knirk, B.	Spitler
Dehnke	Koeze, Mrs.	Stafseth
Dell	Kuhn	Staiger
Doty, Dean	Lawrence	Stamm
Doty, Donald	Leibrand	Sterrett
Durst	Leppien	Stevens
Elliott, A. G.	Martin	Thomson
Elliott, Mrs. Daisy	McGowan, Miss	Tubbs
Everett	McLogan	Turner
Farnsworth	Millard	Tweedie
Figy	Mosier	Upton
Finch	Page	Van Dusen
Follo	Perras	Wanger
Gadola	Plank	White
Goebel	Pollock	Woolfenden
Gover		

Nays—39

Austin	Ford	Nord
Baginski	Hart, Miss	Ostrow
Balcer	Hatcher, Mrs.	Pellow
Binkowski	Hodges	Perlich
Bledsoe	Jones	Sablich
Bradley	Kelsey	Snyder
Brown, T. S.	Krolikowski	Stopczynski
Buback	Lesinski	Suzore
Dade	Madar	Walker
Douglas	Marshall	Wilkowski
Downs	McAllister	Wood
Erickson	McCauley	Young
Faxon	Murphy	Youngblood

SECRETARY CHASE: On the passage of article V, as amended, the yeas are 91; the nays are 39.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted in favor thereof, **article V**, as amended, is passed.

For sections 1 through 8 and 10 through 27 of article V as passed, see above, page 3057.

Following is section 9 of article V, as amended and passed:

Sec. 9. The governor shall have power and it shall be his duty to inquire into the condition and administration of any public office and the acts of any public officer, elective or

appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or for any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and shall report the reasons for such removal or suspension to the legislature.

Following is section 28 of article V, as amended and passed:

Sec. 28. There is hereby established a civil rights commission which shall consist of eight persons, not more than four of whom shall be members of the same political party, who shall be appointed by the governor, by and with the advice and consent of the senate, for four-year terms not more than two of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

Appeals from final orders of the commission, including cease and desist orders and refusals to issue complaints, shall be tried de novo before the circuit court of the state having jurisdiction provided by law.

Following is explanation of vote submitted by Messrs. Austin, Sablich, Bradley, Wilkowski, Downs, Hodges, Madar, Marshall, Walker, Stopczynski, Young, Faxon, Buback, T. S. Brown, Baginski, Binkowski and Miss Hart:

We voted no on article V, the executive branch, because this builds in the conflict between the governor and the state senate. The executive cannot make a single appointment under this article without the advice and consent of the senate — a senate which does not and can not represent people because of the lack of equitable apportionment. Thus, the governor is restricted and limited and must make decisions on appointments on the basis of confirmability with an actual minority, rather than ability to serve the people of the state.

The present elected highway commissioner has been replaced by a 4 headed bipartisan staggered body, selected with advice and consent, that in turn selects a director. This has neither the advantages of an elected system, nor that of an appointed system directly by the governor. Michigan's present superior highway system can seriously suffer from this unwarranted change.

The state treasurer is no longer elected, but is appointed with advice and consent, and as such will be subject to control in appointment by a majority of the legislators representing a minority of the people of the state. The section dealing on the executive budget (section 19) will practically mandate the governor to reduce expenditures in unearmarked areas if state revenues decline, with the approval of legislative appropriating committees. This too will be a built in conflict between a governor with social responsibilities and a legislative committee that is not truly representative of all the people.

Because highways and local units of government have earmarked funds, whereas schools and social services do not, there will be terrific pressures in a period of economic decline, when tax revenues are least and social needs are the greatest, for the governor to cut expenditures for legislation, mental health, education, and social services to meet requirements of this section.

We, therefore, voted no on this article.

VICE PRESIDENT HUTCHINSON (continuing): The secretary will read article VI, judicial branch.

SECRETARY CHASE: **Article VI,** judicial branch:

[Article VI, sections 1 through 29, was read by the secretary. For the text, see above, page 3060.]

VICE PRESIDENT HUTCHINSON: Article VI has been read a third time.

SECRETARY CHASE: Mr. Cudlip, on behalf of the committee on style and drafting, requests that the following corrections be made in article VI of the proposed revision of the constitution:

section	column	line	Corrections
2	1	57	After "[except" delete "that".
2	1	57	Change "ANY" to "Any".
10	1	3	After "[" insert "as".
18	2	38	After "court" insert "[such]".
18	2	38	At end of line, change "an" to "AN".

VICE PRESIDENT HUTCHINSON: Without objection it is so ordered. [Corrections made above.] The secretary will report the amendments.

SECRETARY CHASE: Mr. W. F. Hanna [and Mr. Higgs] offers the following amendment:

1. Amend article VI, section 26 (first column, line 39) after "jurisdiction" by inserting a comma and "compensation"; so the language will read, "Their jurisdiction, compensation and powers within this period shall be as provided by law."

VICE PRESIDENT HUTCHINSON: Mr. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, I want to raise a problem which, unfortunately, I did not catch on first or second reading and it was not until we were going over this matter carefully in style and drafting last week that I saw what I believe to be a serious problem and a serious inconsistency, and I bring it to the attention of the convention. We have provided that upon the adoption of this constitution, or the effective date of this constitution, that no judicial officer shall be compensated by fees or anything based upon the volume of his business, but it is said that he must be paid a salary. We now then come to section 26, where we have continued in office these offices of circuit court commissioner and justice of the peace, which are in fact officers that in the main have been compensated by fees of their office and dependent upon the volume of activity.

Now I want to raise 3 problems with this conflict as I see it: first is the practical impossibility, if this constitution goes into effect on January first of a given year. In the townships the fiscal year is from April 1 to April 1, and in counties the fiscal year will have commenced before the effective date of the constitution. There will be no money appropriated; there will be no money out of which you can pay circuit court commissioners a salary or a justice of the peace a salary. Therefore, you are asking these people to serve completely without compensation. Secondly, under the present state law, each township elects 2 justices of the peace. Certainly, you will have to provide in all due process that the 2 justices will receive the same salary. And in many, many, many townships that have 2 justices, one justice maintains an active calendar and open docket and the other has no open calendar, no docket, and is purely an honorary type of office. To set a salary commensurate for these 2 men that is the same immediately penalizes the man who has been doing the work and benefits the man who does not do the work, and so far there is nothing in this constitution that makes a justice of the peace maintain a docket, hold office, or perform any judicial function. Therefore, until this whole matter can be worked out, this man can sit there and draw a salary and not do anything. So that you have a practical fiscal problem in the efforts to do this.

Now, the second problem that I want to raise is breach of contract. We have elsewhere provided in this constitution that you

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Explanation—Matter within [ ] is stricken, matter in capitals is new.

PREAMBLE

We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

Article I

Declaration of Rights

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation.

Sec. 3. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances.

Sec. 4. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Sec. 5. Every person may freely speak, write, express and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be enacted to restrain or abridge the liberty of speech or of the press.

Sec. 6. Every person has a right to keep and bear arms for the defense of himself and the state.

Sec. 7. The military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 8. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sec. 9. Neither slavery, nor involuntary servitude unless for the punishment of crime, shall ever be tolerated in this state.

Sec. 10. No bill of attainder, ex post facto law or law impairing the obligation of contract shall be enacted.

Sec. 11. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation. The provisions of this section shall not be construed to bar from evidence in any criminal proceeding any narcotic drug, firearm, bomb, explosive or any other dangerous weapon, seized by a peace officer outside the curtilage of any dwelling house in this state.

Sec. 12. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

Sec. 13. A suitor in any court of this state has the right to prosecute or defend his suit,

either in his own proper person or by an attorney.

Sec. 14. The right of trial by jury shall remain, but shall be waived in all civil cases unless demanded by one of the parties in the manner prescribed by law. In all civil cases tried by 12 jurors a verdict shall be received when 10 jurors agree.

Sec. 15. No person shall be subject for the same offense to be twice put in jeopardy. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

Sec. 16. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

Sec. 18. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sec. 19. In all prosecutions for libels the truth may be given in evidence to the jury; and, if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

Sec. 20. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 jurors in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; to have an appeal as a matter of right; and in courts of record, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

Sec. 21. No person shall be imprisoned for debt arising out of or founded on contract, express or implied, except in cases of fraud or breach of trust.

Sec. 22. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act or on confession in open court.

Sec. 23. The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Article II
Elections

Sec. 1. Every citizen of the United States who has attained the age of 21 years, who has resided in this state six months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

Sec. 2. The legislature may by law exclude persons from voting because of mental incompetence or commitment to a jail or penal institution.

Sec. 3. For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than six months and may waive residence requirements for former citizens of this state who have removed herefrom. The legislature shall not permit voting by any person who meets the voting residence requirements of the state to which he has removed.

Sec. 4. The legislature shall enact laws to regulate the time, place and manner of all nominations and elections, except as otherwise provided in this constitution or in the constitution and laws of the United States. The legislature shall enact laws to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames.

Sec. 5. Except for special elections to fill vacancies, or as otherwise provided in this constitution, all elections for national, state, county and township offices shall be held on the first Tuesday after the first Monday in November in each even-numbered year or on such other date as members of the congress of the United States are regularly elected.

Sec. 6. Whenever any question is required to be submitted by a political subdivision to the electors which involves the increase of any ad valorem tax rate limitation for a period of more than five years, or the issue of bonds, only electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or electors who are the lawful husbands or wives of such persons shall be entitled to vote thereon. All electors in the district or territory affected may vote on all other questions.

Sec. 7. A board of state canvassers of four

members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers. A majority of any board of canvassers shall not be composed of members of the same political party.

Sec. 8. Laws shall be enacted to provide for the recall of all elective officers except judges of courts of record upon petition of electors equal in number to 25 percent of the number of persons voting in the last preceding election for the office of governor in the electoral district of the officer sought to be recalled. The sufficiency of any statement of reasons or grounds procedurally required shall be a political rather than a judicial question.

Sec. 9. The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to approve or reject laws enacted by the legislature, called the referendum. The power of initiative extends only to laws which the legislature may enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds and must be invoked in the manner prescribed by law within 90 days following the final adjournment of the legislative session at which the law was enacted. To invoke the initiative or referendum, petitions signed by a number of registered electors, not less than eight percent for initiative and five percent for referendum of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected shall be required.

No law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election.

Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If the law so proposed is not enacted by the legislature within the 40 days, the state officer authorized by law shall submit such proposed law to the people for approval or rejection at the next general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by such state officer to the electors for approval or rejection at the next general election.

Any law submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No law initiated or adopted by the people shall be subject to the veto power of the governor, and no law adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors or three-fourths of the members elected to and serving in each house of the legislature. Laws approved by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. If two or more measures approved by the electors at the same election conflict, that receiving the highest affirmative vote shall prevail.

The legislature shall implement the provisions of this section.

Article III
General Government

Sec. 1. The seat of government shall be at Lansing.

Sec. 2. The powers of government are divided into three branches: legislative, executive and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.

Sec. 3. There shall be a great seal of the State of Michigan and its use shall be provided by law.

Sec. 4. The militia shall be organized, equipped and disciplined as provided by law.

Sec. 5. Subject to provisions of general law, this state or any political subdivision, any governmental authority or any combination thereof may enter into agreements for the performance, financing or execution of their respective functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution. Any other provision of this constitution notwithstanding, an officer or employee of the state or of any such unit of government or subdivision or agency thereof may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service. The legislature may impose such restrictions, limitations or conditions on such service as it may deem appropriate.

Sec. 6. The state shall not be a party to, nor be financially interested in, any work of internal improvement, nor engage in carrying on any such work, except for public internal improvements provided by law.

Sec. 7. The common law and the statute laws now in force, not repugnant to this consti-

tution, shall remain in force until they expire by their own limitations, or are changed, amended or repealed.

Sec. 8. Either house of the legislature or the governor may request the opinion of the supreme court on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date.

Article IV
Legislative Branch

Sec. 1. The legislative power of the State of Michigan is vested in a senate and a house of representatives.

Sec. 2. The senate shall consist of 38 members to be elected from single member districts at the same election as the governor for four-year terms concurrent with the term of office of the governor.

In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned an apportionment factor equal to the sum of its percentage of the state's population as shown by the last regular federal decennial census computed to the nearest one-one hundredth of one percent multiplied by four and its percentage of the state's land area computed to the nearest one-one hundredth of one percent.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties is entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.

(2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there is a failure to comply with the above standards.

(3) Counties entitled to two or more senate districts shall be divided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

Sec. 3. The house of representatives shall consist of 110 members elected for two-year terms from single member districts apportioned on a basis of population as provided in this article. The districts shall consist of compact and convenient territory contiguous by land.

Each county which has a population of not less than seven-tenths of one percent of the population of the state shall constitute a separate representative area. Each county having less than seven-tenths of one percent of the population of the state shall be combined with another county or counties to form a representative area of not less than seven-tenths of one percent of the population of the state. Any county which is isolated under the initial allocation as provided in this section shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one representative.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to two or more representatives shall be divided into single member representative districts as follows:

(1) The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the representative area by the number of representatives to which it is entitled.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population adhering to county lines.

Sec. 4. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial dis-

trict in the city with which it is combined, if provided by ordinance of the city. The district or districts with which the territory shall be combined shall be determined by such ordinance certified to the secretary of state. No such change in the boundaries of a representative or senatorial district shall have the effect of removing a legislator from office during his term.

Sec. 5. Island areas are considered to be contiguous by land to the county of which they are a part.

Sec. 6. A commission on legislative apportionment is hereby established consisting of eight persons, four of whom shall be selected by the state organizations of each of the two political parties whose candidates for governor received the highest vote at the last general election at which a governor was elected preceding each apportionment. If a candidate for governor of a third political party has received at such election more than 25 percent of such gubernatorial vote, the commission shall consist of 12 members, four of whom shall be selected by the state organization of the third political party. One member of the commission shall be selected by each political party organization from each of the following four regions: (1) The upper peninsula; (2) The northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) Southwestern Michigan, those counties south of region (2) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) Southeastern Michigan, the remaining counties of the state.

No officers or employees of the federal, state or local governments, excepting notaries public and members of the armed forces reserve, shall be eligible for membership on the commission. Members of the commission shall not be eligible for election to the legislature until two years after the apportionment in which they participated becomes effective.

The commission shall be appointed immediately after the adoption of this constitution and whenever apportionment or districting of the legislature is required by the provisions of this constitution. Members of the commission shall hold office until each apportionment or districting plan becomes effective. Vacancies shall be filled in the same manner as for original appointment.

The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman, shall make its own rules of procedure, and shall receive compensation provided by law. The legislature shall appropriate funds to enable the commission to carry out its activities.

Within 30 days after the adoption of this constitution, and after the official total population count of each federal decennial census of the state and its political subdivisions is available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to district and apportion the senate and house of representatives according to the provisions of this constitution. All final decisions shall require the concurrence of a majority of the members of the commission. The commission shall hold public hearings as may be provided by law.

Each final apportionment and districting plan shall be published as provided by law within 30 days from the date of its adoption and shall become law 60 days after publication. The secretary of state shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of each plan.

If a majority of the commission cannot agree on a plan, each member of the commission, individually or jointly with other members, may submit a proposed plan to the supreme court. The supreme court shall determine which plan complies most accurately with the constitutional requirements and shall direct that it be adopted by the commission and published as provided in this section.

Upon the application of any elector filed not later than 60 days after final publication of the plan, the supreme court, in the exercise of original jurisdiction, shall direct the secretary of state or the apportionment commission to perform their duties, may review any final plan adopted by the commission, and shall remand such plan to the commission for further action if it fails to comply with the requirements of this constitution.

Sec. 7. Each senator and representative must be a citizen of the United States, at least 21 years of age, and an elector of the district he represents. The removal of his domicile from the district shall be deemed a vacation of the office. No person who has been convicted of subversion or who has within the preceding 20 years been convicted of a felony involving a breach of public trust shall be eligible for either house of the legislature.

Sec. 8. No person holding any office under the United States or this state or a political subdivision thereof, except notaries public and officers of the armed forces reserve, may be a member of either house of the legislature.

Sec. 9. No person elected to the legislature shall receive any civil appointment within this

state from the governor, except notaries public, from the legislature, or from any other state authority, during the term for which he is elected.

Sec. 10. No member of the legislature nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest. The legislature shall further implement this provision by appropriate legislation.

Sec. 11. Senators and representatives shall be privileged from civil arrest and civil process during sessions of the legislature and for five days next before the commencement and after the termination thereof. They shall not be questioned in any other place for any speech in either house.

Sec. 12. The compensation and expense allowances of the members of the legislature shall be determined by law. Changes in compensation or expense allowances shall become effective only when legislators commence their terms of office after a general election.

Sec. 13. The legislature shall meet at the seat of government on the second Wednesday in January of each year at twelve o'clock noon. Each regular session shall adjourn without day, on a day determined by concurrent resolution, at twelve o'clock noon. Any business, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next regular session.

Sec. 14. A majority of the members elected to and serving in each house shall constitute a quorum to do business. A smaller number in each house may adjourn from day to day, and may compel the attendance of absent members in the manner and with penalties as each house may prescribe.

Sec. 15. There shall be a bi-partisan legislative council consisting of legislators appointed in the manner prescribed by law. The legislature shall appropriate funds for the council's operations and provide for its staff which shall maintain bill drafting, research and other services for the members of the legislature. The council shall periodically examine and recommend to the legislature revision of the various laws of the state.

Sec. 16. Each house, except as otherwise provided in this constitution, shall choose its own officers and determine the rules of its proceedings, but shall not adopt any rule that will prevent a majority of the members elected thereto and serving therein from discharging a committee from the further consideration of any measure. Each house shall be the sole judge of the qualifications, elections and returns of its members, and may, with the concurrence of two-thirds of all the members elected thereto and serving therein, expel a member. The reasons for such expulsion shall be entered in the journal, with the votes and names of the members voting upon the question. No member shall be expelled a second time for the same cause.

Sec. 17. Each house of the legislature may establish the committees necessary for the efficient conduct of its business and the legislature may create joint committees. Each committee shall by roll call vote record the vote and name of all action on bills and resolutions taken in the committee. Such vote shall be available for public inspection. Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in the journal in advance of the hearing.

Sec. 18. Each house shall keep a journal of its proceedings, and publish the same unless the public security otherwise requires. The record of the vote and name of the members of either house voting on any question shall be entered in the journal at the request of one-fifth of the members present. Any member of either house may dissent from and protest against any act, proceeding or resolution which he deems injurious to any person or the public, and have the reason for his dissent entered in the journal.

Sec. 19. All elections in either house or in joint convention and all votes on appointments submitted to the senate for advice and consent shall be published by vote and name in the journal.

Sec. 20. The doors of each house shall be open unless the public security otherwise requires.

Sec. 21. Neither house shall, without the consent of the other, adjourn for more than two intervening calendar days, nor to any place other than where the legislature may then be in session.

Sec. 22. All legislation shall be by bill and may originate in either house.

Sec. 23. The style of the laws shall be: The People of the State of Michigan enact.

Sec. 24. No law shall embrace more than one object, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title.

Sec. 25. No law shall be revised, altered or amended by reference to its title only. The section or sections of the act altered or amended shall be re-enacted and published at length.

Sec. 26. No bill shall be passed or become a law at any regular session of the legislature until it has been printed or reproduced and in the possession of each house for at least five days. Every bill shall be read three times in each house before the final passage thereof. No bill shall become a law without the concurrence of a majority of the members elected to and serving in each

house. On the final passage of bills, the votes and names of the members voting thereon shall be entered in the journal.

Sec. 27. No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.

Sec. 28. When the legislature is convened on extraordinary occasions in special session no bill shall be passed on any subjects other than those expressly stated in the governor's proclamation or submitted by special message.

Sec. 29. The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act shall take effect until approved by two-thirds of the members elected to and serving in each house and by a majority of the electors voting thereon in the district affected. Any act repealing local or special acts shall require only a majority of the members elected to and serving in each house and shall not require submission to the electors of such district.

Sec. 30. The assent of two-thirds of the members elected to and serving in each house of the legislature shall be required for the appropriation of public money or property for local or private purposes.

Sec. 31. The general appropriation bills for the succeeding fiscal period covering items set forth in the budget shall be passed or rejected in either house of the legislature before that house passes any appropriation bill for items not in the budget except bills supplementing appropriations for the current fiscal year's operation. Any bill requiring an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as passed by the legislature shall contain an itemized statement of estimated revenue by major source in each operating fund for the ensuing fiscal period, the total of which shall not be less than the total of all appropriations made from each fund in the general appropriation bills as passed.

Sec. 32. Every law which imposes, continues or revives a tax shall distinctly state the tax.

Sec. 33. Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he does not approve, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated. That house shall enter such objections in full in its journal and reconsider the bill. If two-thirds of the members elected to and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by two-thirds of the members elected to and serving in that house. The vote of each house shall be entered in the journal with the votes and names of the members voting thereon. If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it.

Sec. 34. Any bill passed by the legislature and approved by the governor, except a bill appropriating money, may provide that it will not become law unless approved by a majority of the electors voting thereon.

Sec. 35. All laws enacted at any session of the legislature shall be published in book form within 60 days after final adjournment of the session, and shall be distributed in the manner provided by law. The prompt publication of judicial decisions shall be provided by law. All laws and judicial decisions shall be free for publication by any person.

Sec. 36. No general revision of the laws shall be made. The legislature may provide for a compilation of the laws in force, arranged without alteration, under appropriate heads and titles.

Sec. 37. The legislature may by concurrent resolution empower a joint committee of the legislature acting between sessions to suspend until the end of the next regular legislative session any rule or regulation of an administrative agency promulgated when the legislature is not in regular session.

Sec. 38. The legislature may provide by law the cases in which any office shall be vacant and the manner of filling vacancies where no provision is made in this constitution.

Sec. 39. In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state caused by enemy attack on the United States, the legislature may provide by law for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices; and enact other laws necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred by this section, elections shall always

be called as soon as possible to fill any vacancies in elective offices temporarily occupied by operation of any legislation enacted pursuant to the provisions of this section.

Sec. 40. The legislature may by law establish a liquor control commission which, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof. The legislature may provide for an excise tax on such sales. Neither the legislature nor the commission may authorize the manufacture or sale of alcoholic beverages in any county in which a majority of the electors voting thereon shall prohibit the same.

Sec. 41. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

Sec. 42. The legislature may provide for the incorporation of ports and port districts, and confer power and authority upon them to engage in work of internal improvements in connection therewith.

Sec. 43. No general law providing for the incorporation of trust companies or corporations for banking purposes, or regulating the business thereof, shall be enacted, amended or repealed except by a vote of two-thirds of the members elected to and serving in each house.

Sec. 44. The legislature may authorize a trial by a jury of less than 12 jurors in civil cases.

Sec. 45. The legislature may provide for indeterminate sentences as punishment for crime and for the detention and release of persons imprisoned or detained under such sentences.

Sec. 46. No law shall be enacted providing for the penalty of death.

Sec. 47. The legislature may authorize the employment of chaplains in state institutions of detention or confinement.

Sec. 48. The legislature may enact laws providing for the resolution of disputes concerning public employees, except those in the state classified civil service.

Sec. 49. The legislature may enact laws relative to the hours and conditions of employment.

Sec. 50. The legislature may provide safety measures and regulate the use of atomic energy and forms of energy developed in the future, having in view the general welfare of the people of this state.

Sec. 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

Sec. 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction.

Sec. 53. The legislature by a majority vote of the members elected to and serving in each house, shall appoint an auditor general, who shall be a certified public accountant licensed to practice in this state, to serve for a term of eight years. He shall be ineligible for appointment or election to any other public office in this state from which compensation is derived while serving as auditor general and for two years following the termination of his service. He may be removed for cause at any time by a two-thirds vote of the members elected to and serving in each house. The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

The auditor general upon direction by the legislature may employ independent accounting firms or legal counsel and may make investigations pertinent to the conduct of audits. He shall report annually to the legislature and to the governor and at such other times as he deems necessary or as required by the legislature. He shall be assigned no duties other than those specified in this section.

Nothing in this section shall be construed in any way to infringe the responsibility and constitutional authority of the governing boards of the institutions of higher education to be solely responsible for the control and direction of all expenditures from the institutions' funds.

The auditor general, his deputy and one other member of his staff shall be exempt from classified civil service. All other members of his staff shall have classified civil service status.

Article V
Executive Branch

Sec. 1. The executive power is vested in the governor.

Sec. 2. All executive and administrative offices, agencies and instrumentalities of the executive branch of state government and their respective functions, powers and duties, except for the office of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes.

Subsequent to the initial allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these

changes require the force of law, they shall be set forth in executive orders and submitted to the legislature. Thereafter the legislature shall have 60 calendar days of a regular session, or a full session if of shorter duration, to disapprove each executive order. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, each order shall become effective at a date thereafter to be designated by the governor.

Sec. 3. The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer and an attorney general. When a single executive is the head of a principal department, unless elected or appointed as otherwise provided in this constitution, he shall be appointed by the governor by and with the advice and consent of the senate and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, unless elected or appointed as otherwise provided in this constitution, the members thereof shall be appointed by the governor by and with the advice and consent of the senate. The term of office and procedure for removal of such members shall be as prescribed in this constitution or by law.

Terms of office of any board or commission created or enlarged after the effective date of this constitution shall not exceed four years except as otherwise authorized in this constitution. The terms of office of existing boards and commissions which are longer than four years shall not be further extended except as provided in this constitution.

Sec. 4. Temporary commissions or agencies for special purposes with a life of no more than two years may be established by law and need not be allocated within a principal department.

Sec. 5. At no time shall an examining or licensing board of a profession include less than a majority of members of that profession.

Sec. 6. Appointment by and with the advice and consent of the senate when used in this constitution or laws in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 session days after the date of such appointment. Any appointment not disapproved within such period shall stand confirmed.

Sec. 7. Vacancies in any office, appointment to which requires advice and consent of the senate, shall be filled by the governor by and with the advice and consent of the senate. A person whose appointment has been disapproved by the senate shall not be eligible for an interim appointment to the same office.

Sec. 8. Each principal department shall be under the supervision of the governor unless otherwise provided by this constitution. The governor shall take care that the laws be faithfully executed. He shall transact all necessary business with the officers of government and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may initiate court proceedings in the name of the state to enforce compliance with any constitutional or legislative mandate, or to restrain violations of any constitutional or legislative power, duty or right by any officer, department or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize court proceedings against the legislature.

Sec. 9. Single executives heading principal departments and the chief executive officers of principal departments headed by boards or commissions shall keep their offices at the seat of government except as otherwise provided by law, superintend them in person and perform duties prescribed by law.

Sec. 10. The governor shall have power and it shall be his duty to inquire into the condition and administration of any public office and the acts of any public officer, elective or appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or for any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and shall report the reasons for such removal or suspension to the legislature.

Sec. 11. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an appointed or elected officer, other than a legislative or judicial officer, until he is reinstated or until the vacancy is filled in the manner prescribed by law or this constitution.

Sec. 12. The governor shall be commander-in-chief of the armed forces and may call them out to execute the laws, suppress insurrection and repel invasion.

Sec. 13. The governor shall issue writs of election to fill vacancies in the senate or house of representatives. Any such election shall be held in a manner prescribed by law.

Sec. 14. The governor shall have power to grant reprieves, commutations and pardons after convictions for all offenses, except cases of impeachment, upon such conditions and limitations as he may direct, subject to procedures and regulations prescribed by law. He shall inform the legislature annually of each reprieve, commutation and pardon granted, stating reasons

therefor.

Sec. 15. The governor may convene the legislature on extraordinary occasions.

Sec. 16. The governor may convene the legislature at some other place when the seat of government becomes dangerous from any cause.

Sec. 17. The governor shall communicate by message to the legislature at the beginning of each session and may at other times present to the legislature information as to the affairs of the state and recommend measures he considers necessary or desirable.

Sec. 18. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, for all operating funds, the proposed expenditures and estimated revenue of the state. Proposed expenditures from any fund shall not exceed the estimated revenue thereof. On the same date, the governor shall submit to the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills to provide new or additional revenues to meet proposed expenditures. The amount of any surplus created or deficit incurred in any fund during the last preceding fiscal period shall be entered as an item in the budget and in one of the appropriation bills. The governor may submit amendments to appropriation bills to be offered in either house during consideration of the bill by that house, and shall submit any bills to meet deficiencies in current appropriations.

Sec. 19. The governor may disapprove any distinct item or items appropriating moneys in any appropriation bill. The part or parts approved shall become law, and the item or items disapproved shall be void unless re-passed according to the method prescribed for the passage of other bills over the executive veto.

Sec. 20. No appropriation shall be a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures authorized by appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based. Reductions in expenditures shall be made in accordance with procedures prescribed by law. The governor may not reduce expenditures of the legislative and judicial branches or from funds constitutionally dedicated for specific purposes.

Sec. 21. The governor, lieutenant governor, secretary of state and attorney general shall be elected for four-year terms at the general election in each alternate even-numbered year.

The lieutenant governor, secretary of state and attorney general shall be nominated by party conventions in a manner prescribed by law. In the general election one vote shall be cast jointly for the candidates for governor and lieutenant governor nominated by the same party.

Vacancies in the office of the secretary of state and attorney general shall be filled by appointment by the governor.

Sec. 22. To be eligible for the office of governor or lieutenant governor a person must have attained the age of 30 years, and have been a registered elector in this state for four years next preceding his election.

Sec. 23. The governor, lieutenant governor, secretary of state and attorney general shall each receive the compensation provided by law in full payment for all services performed and expenses incurred during his term of office. Such compensation shall not be changed during the term of office except as otherwise provided in this constitution.

Sec. 24. An executive residence suitably furnished shall be provided at the seat of government for the use of the governor. He shall receive an allowance for its maintenance as provided by law.

Sec. 25. The lieutenant governor shall be president of the senate, but shall have no vote except in case of equal division. He may perform duties requested of him by the governor, but no power vested in the governor shall be delegated.

Sec. 26. In case of the conviction of the governor on impeachment, his removal from office, his resignation or his death, the lieutenant governor, the elected secretary of state, the elected attorney general and such other persons designated by law shall in that order be governor for the remainder of the governor's term.

In case of the death of the governor-elect, the lieutenant governor-elect, the secretary of state-elect, the attorney general-elect and such other persons designated by law shall become governor in that order at the commencement of the governor-elect's term.

If the governor or the person in line of succession to serve as governor is absent from the state, or suffering under an inability, the powers and duties of the office of governor shall devolve in order of precedence until the absence or inability giving rise to the devolution of powers ceases.

The inability of the governor or person acting as governor shall be determined by a majority of the supreme court on joint request of the president pro tempore of the senate and the speaker of the house of representatives. Such determination shall be final and conclusive. The supreme court shall upon its own initiative determine if and when the inability ceases.

Sec. 27. The legislature shall provide that the salary of any state officer while acting as governor shall be equal to that of the governor.

Sec. 28. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction

and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as provided by law.

The state highway commission shall consist of four members, not more than two of whom shall be members of the same political party. They shall be appointed by the governor by and with the advice and consent of the senate for four-year terms, no two of which shall expire in the same year as provided by law.

The state highway commission shall appoint and may remove a state highway director, who shall be a competent highway engineer and administrator. He shall be the principal executive officer of the state highway department and shall be responsible for executing the policy of the state highway commission.

Sec. 29. There is hereby established a civil rights commission which shall consist of eight persons, not more than four of whom shall be members of the same political party, who shall be appointed by the governor, by and with the advice and consent of the senate, for four-year terms not more than two of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

Appeals from final orders of the commission, including cease and desist orders and refusals to issue complaints, shall be tried de novo before the circuit court having jurisdiction provided by law.

Article VI
Judicial Branch

Sec. 1. The judicial power of the state is vested exclusively in one court of justice which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and other courts of limited jurisdiction that the legislature may establish by a two-thirds vote of the members elected to and serving in each house.

Sec. 2. The supreme court shall consist of seven justices elected at non-partisan elections as provided by law. The term of office shall be eight years and not more than two terms of office shall expire at the same time. Nominations for justices of the supreme court shall be in the manner prescribed by law. Any incumbent justice whose term is to expire may become a candidate for re-election by filing an affidavit of candidacy, in the form and manner prescribed by law, not less than 180 days prior to the expiration of his term.

Sec. 3. One justice of the supreme court shall be selected by the court as its chief justice as provided by rules of the court. He shall perform other duties required by the court. The supreme court shall appoint an administrator of the courts and other assistants of the supreme court as may be necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.

Sec. 4. The supreme court shall have general superintending control over all courts; power to issue, hear, and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.

Sec. 5. The supreme court shall by general rules establish, modify, amend and simplify the practice and procedure in all courts of this state. The distinctions between law and equity proceedings shall, as far as practicable, be abolished. The office of master in chancery is prohibited.

Sec. 6. Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent.

Sec. 7. The supreme court may appoint, may remove, and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of moneys appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

Sec. 8. The court of appeals shall consist initially of nine judges who shall be nominated and elected at non-partisan elections from districts drawn on county lines and as nearly as possible of equal population, as provided by law. The

supreme court may prescribe by rule that the court of appeals may sit in divisions and for the terms of court and the times and places thereof. Each such division shall consist of not fewer than three judges. The number of judges comprising the court of appeals may be increased, and the districts from which they are elected may be changed by law.

Sec. 9. Judges of the court of appeals shall hold office for a term of six years and until their successors are elected and qualified. The terms of office for the judges in each district shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 10. The jurisdiction of the court of appeals shall be provided by law and the practice and procedure therein shall be prescribed by rules of the supreme court.

Sec. 11. The state shall be divided into judicial circuits along county lines in each of which there shall be elected one or more circuit judges as provided by law. Sessions of the circuit court shall be held at least four times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or counties within the circuit in which he is elected, and in other circuits as may be provided by rules of the supreme court. The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall be created, altered and discontinued on recommendation of the supreme court to reflect changes in judicial activity. No change in the number of judges or alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.

Sec. 12. Circuit judges shall be nominated and elected at non-partisan elections in the circuit in which they reside, and shall hold office for a term of six years and until their successors are elected and qualified. In circuits having more than one circuit judge their terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 13. The circuit court shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court.

Sec. 14. The clerk of each county organized for judicial purposes or other officer performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such county. The judges of the circuit court may fill a vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions.

Sec. 15. In each county organized for judicial purposes there shall be a probate court. The legislature may create or alter probate court districts of more than one county if approved in each affected county by a majority of the electors voting on the question. The legislature may provide for the combination of the office of probate judge with any judicial office of limited jurisdiction within a county with supplemental salary as provided by law. The jurisdiction, powers and duties of the probate court and of the judges thereof shall be provided by law. They shall have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. 16. One or more judges of probate as provided by law shall be nominated and elected at non-partisan elections in the counties or the probate districts in which they reside and shall hold office for terms of six years and until their successors are elected and qualified. In counties or districts with more than one judge the terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 17. No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or the amount of judicial activity of his office.

Sec. 18. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within a circuit, and of the probate judges within a county or district, shall be uniform, and may be increased, but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

Each of the judges of the circuit court shall receive an annual salary as provided by law. In addition to the salary received from the state, each circuit judge may receive from any county in which he regularly holds court an additional salary as determined from time to time by the board of supervisors of the county. In any county where an additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

Sec. 19. The supreme court, the court of appeals, the circuit court, the probate court and other courts designated as such by the legislature shall be courts of record and each shall have a common seal. Justices and judges of courts of record must be persons who are licensed to practice law in this state. No person shall be elected or appointed to a judicial office after reaching the age of 70 years.

Sec. 20. Whenever a justice or judge removes his domicile beyond the limits of the territory from which he was elected, he shall have vacated his office.

Sec. 21. Any justice or judge of a court of record shall be ineligible to be nominated for or elected to an elective office other than a judicial office during the period of his service and for one year thereafter.

Sec. 22. Any elected judge of the court of appeals, circuit court or probate court may become a candidate in the primary election for the office of which he is the incumbent by filing an affidavit of candidacy in the form and manner prescribed by law.

Sec. 23. A vacancy in the elective office of a judge of any court of record shall be filled at a general or special election as provided by law. The supreme court may authorize persons who have served as judges and who have retired, to perform judicial duties for the limited period of time from the occurrence of the vacancy until the successor is elected and qualified. Such persons shall be ineligible for election to fill the vacancy.

Sec. 24. There shall be printed upon the ballot under the name of each elected incumbent justice or judge who is a candidate for nomination or election to the same office the designation of that office.

Sec. 25. For reasonable cause, which is not sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of two-thirds of the members elected to and serving in each house of the legislature. The cause for removal shall be stated at length in the resolution.

Sec. 26. The offices of circuit court commissioner and justice of the peace are abolished at the expiration of five years from the date this constitution becomes effective or may within this period be abolished by law. Their jurisdiction, compensation and powers within this period shall be as provided by law. Within this five-year period, the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law. The location of such court or courts, and the qualifications, tenure, method of election and salary of the judges of such court or courts, and by what governmental units the judges shall be paid, shall be provided by law, subject to the limitations contained in this Article.

Statutory courts in existence at the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until they are abolished by law.

Sec. 27. The supreme court, the court of appeals, the circuit court, or any justices or judges thereof, shall not exercise any power of appointment to public office except as provided in this constitution.

Sec. 28. All final decisions, findings, rulings and orders of any administrative officer or agency existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights or licenses, shall be subject to direct review by the courts as provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law; and, in cases in which a hearing is required, whether the same are supported by competent, material and substantial evidence on the whole record. Findings of fact in workmen's compensation proceedings shall be conclusive in the absence of fraud unless otherwise provided by law.

Sec. 29. Justices of the supreme court, judges of the court of appeals, circuit judges and other judges as provided by law shall be conservators of the peace within their respective jurisdictions.

Article VII
Local Government

Sec. 1. Each organized county shall be a body corporate with powers and immunities provided by law.

Sec. 2. Any county may frame, adopt, amend or repeal a county charter in a manner and with powers and limitations to be provided by general law, which shall among other things provide for the election of a charter commission. The law may permit the organization of county government in form different from that set forth in this constitution and shall limit the rate of ad valorem property taxation for county purposes, and restrict the powers of charter counties to borrow money and contract debts. Each charter county is hereby granted power to levy other taxes for county purposes subject to limitations and prohibitions set forth in this constitution or law. Subject to law, a county charter may authorize the county through its regularly constituted authority to adopt resolutions and ordinances relating to its concerns.

The board of supervisors by a majority vote of its members may, and upon petition of five percent of the electors shall, place upon the ballot the question of electing a commission to frame a charter.

No county charter shall be adopted, amended or repealed until approved by a majority of electors voting on the question.

Sec. 3. No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed by the United States, unless approved in the manner prescribed by law by a majority of electors voting thereon in each county to be affected.

Sec. 4. There shall be elected for four-year terms in each organized county a sheriff, a county

clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be provided by law. The board of supervisors in any county may combine the offices of county clerk and register of deeds in one office or separate the same at pleasure.

Sec. 5. The sheriff, county clerk, county treasurer and register of deeds shall hold their principal offices at the county seat.

Sec. 6. The sheriff may be required by law to renew his security periodically and in default of giving such security, his office shall be vacant. The county shall never be responsible for his acts, except that the board of supervisors may protect him against claims by prisoners for unintentional injuries received while in his custody. He shall not hold any other office except in civil defense.

Sec. 7. A board of supervisors shall be established in each organized county consisting of one member from each organized township and such representation from cities as provided by law.

Sec. 8. Boards of supervisors shall have legislative, administrative and such other powers and duties as provided by law.

Sec. 9. Boards of supervisors shall have exclusive power to fix the compensation of county officers not otherwise provided by law.

Sec. 10. A county seat once established shall not be removed until the place to which it is proposed to be moved shall be designated by two-thirds of the members of the board of supervisors and a majority of the electors voting thereon shall have approved the proposed location in the manner prescribed by law.

Sec. 11. No county shall incur any indebtedness which shall increase its total debt beyond 10 percent of its assessed valuation.

Sec. 12. A navigable stream shall not be bridged or dammed without permission granted by the board of supervisors of the county as provided by law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and political subdivisions therein.

Sec. 13. Two or more contiguous counties may combine into a single county if approved in each affected county by a majority of the electors voting on the question.

Sec. 14. The board of supervisors of each organized county may organize and consolidate townships under restrictions and limitations provided by law.

Sec. 15. Any county, when authorized by its board of supervisors shall have the authority to enter or to intervene in any action or certificate proceeding involving the services, charges or rates of any privately owned public utility furnishing services or commodities to rate payers within the county.

Sec. 16. The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the state and by the counties and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The legislature may provide the powers and duties of counties in relation to highways, bridges, culverts and airports; may provide for county road commissioners to be appointed or elected, with powers and duties provided by law. The ad valorem property tax imposed for road purposes by any county shall not exceed in any year one-half of one percent of the assessed valuation for the preceding year.

Sec. 17. Each organized township shall be a body corporate with powers and immunities provided by law.

Sec. 18. In each organized township there shall be elected for terms of not less than two nor more than four years as prescribed by law a supervisor, a clerk, a treasurer, and not to exceed four trustees, whose legislative and administrative powers and duties shall be provided by law.

Sec. 19. No organized township shall grant any public utility franchise which is not subject to revocation at the will of the township, unless the proposition shall first have been approved by a majority of the electors of such township voting thereon at a regular or special election.

Sec. 20. The legislature shall provide by law for the dissolution of township government whenever all the territory of an organized township is included within the boundaries of a village or villages notwithstanding that a village may include territory within another organized township and provide by law for the classification of such village or villages as cities.

Sec. 21. The legislature shall provide by general laws for the incorporation of cities and villages. Such laws shall limit their rate of ad valorem property taxation for municipal purposes, and restrict the powers of cities and villages to borrow money and contract debts. Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.

Sec. 22. Under general laws the electors of each city and village shall have the power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village. Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall limit or restrict the general grant of authority conferred by this section.

Sec. 23. Any city or village may acquire, own, establish and maintain, within or without its corporate limits, parks, boulevards, cemeteries, hospitals and all works which involve the public health or safety.

Sec. 24. Subject to this constitution, any city or village may acquire, own or operate, within or without its corporate limits, public service facilities for supplying water, light, heat, power, sewage disposal and transportation to the municipality and the inhabitants thereof.

Any city or village may sell and deliver heat, power or light without its corporate limits in an amount not exceeding 25 percent of that furnished by it within the corporate limits, except as greater amounts may be permitted by law; may sell and deliver water and provide sewage disposal services outside of its corporate limits in such amount as may be determined by the legislative body of the city or village; and may operate transportation lines outside the municipality within such limits as may be prescribed by law.

Sec. 25. No city or village shall acquire any public utility furnishing light, heat or power, or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless the proposition shall first have been approved by three-fifths of the electors voting thereon. No city or village may sell any public utility unless the proposition shall first have been approved by a majority of the electors voting thereon, or a greater number if the charter shall so provide.

Sec. 26. Except as otherwise provided in this constitution, no city or village shall have the power to loan its credit for any private purpose or, except as provided by law, for any public purpose.

Sec. 27. Notwithstanding any other provision of this constitution the legislature may establish in metropolitan areas additional forms of government or authorities with powers, duties and jurisdictions as the legislature shall provide. Wherever possible, such additional forms of government or authorities shall be designed to perform multi-purpose functions rather than a single function.

Sec. 28. The legislature by general law shall authorize two or more counties, townships, cities, villages or districts, or any combination thereof among other things to: enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government; lend their credit to one another or any combination thereof as provided by law in connection with any authorized publicly owned undertaking.

Any other provision of this constitution notwithstanding, an officer or employee of the state or any such unit of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service.

Sec. 29. No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, township, city or village for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, township, city or village; or to transact local business therein without first obtaining a franchise from the township, city or village. Except as otherwise provided in this constitution the right of all counties, townships, cities and villages to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.

Sec. 30. No franchise or license shall be granted by any township, city or village for a period longer than 30 years.

Sec. 31. The legislature shall not vacate or alter any road, street, alley, or public place under the jurisdiction of any county, township, city or village.

Sec. 32. Any county, township, city, village, authority or school district empowered by the legislature or by this constitution to prepare budgets of estimated expenditures and revenues shall adopt such budgets only after a public hearing in a manner prescribed by law.

Sec. 33. Any elected officer of a political subdivision may be removed from office in the manner and for the causes provided by law.

Sec. 34. The provisions of this constitution and law concerning counties, townships, cities and villages shall be liberally construed in their favor. Powers granted to counties and townships by this constitution and by law shall include those fairly implied and not prohibited by this constitution.

Article VIII
Education

Sec. 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Sec. 2. The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.

Sec. 3. Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies. He shall be the principal executive officer of a state department of education which shall have powers and duties provided by law.

The state board of education shall consist of eight members who shall be nominated by party conventions and elected at large for terms of eight years as prescribed by law. The governor shall fill any vacancy by appointment for the unexpired term. The governor shall be ex-officio a member of the state board of education without the right to vote.

The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section.

Sec. 4. The legislature shall appropriate moneys to maintain the university of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, by whatever names such institutions may hereafter be known, and other institutions of higher education established by law. The legislature shall be given an annual accounting of all income and expenditures by each of these educational institutions. Formal sessions of governing boards of such institutions shall be open to the public.

Sec. 5. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. Each board shall have general supervision of its institution and the control and direction of all expenditures from the institution's funds. Each board shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution, be ex-officio a member of the board without the right to vote and preside at meetings of the board. The board of each institution shall consist of eight members who shall hold office for terms of eight years and who shall be elected as provided by law. The governor shall fill board vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as provided by law.

Sec. 6. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. It shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution and be ex-officio a member of the board without the right to vote. The board may elect one of its members or may designate the president, to preside at board meetings. Each board of control shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the governor by and with the advice and consent of the senate. Vacancies shall be filled in like manner.

Sec. 7. The legislature shall provide by law for the establishment and financial support of public community and junior colleges which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the state board of education. Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex-officio a member of this board without the right to vote.

Sec. 8. Institutions, programs, and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally, or otherwise seriously handicapped shall always be fostered and supported.

Sec. 9. The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof. All fines assessed and collected in the several counties, cities and townships for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law.

Article IX
Finance and Taxation

Sec. 1. The legislature shall impose taxes sufficient with other resources to pay the expenses of state government.

Sec. 2. The power of taxation shall never be surrendered, suspended or contracted away.

Sec. 3. The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 percent; and for a system of equalization of assessments. The legislature may provide for alternative means of taxation of designated real and tangible personal property in lieu of general ad valorem taxation. Every tax other than the general ad valorem property tax shall be uniform upon the class or classes on which it operates.

Sec. 4. Property owned and occupied by nonprofit religious or educational organizations and used exclusively for religious or educational purposes, as defined by law, shall be exempt from real and personal property taxes.

Sec. 5. The legislature shall provide for the assessment by the state of the property of those public service businesses assessed by the state at the date this constitution becomes effective, and of other property as designated by the legislature, and for the imposition and collection of taxes thereon. Property assessed by the state shall be assessed at the same proportion of its true cash value as the legislature shall specify for property subject to general ad valorem taxation. The rate of taxation on such property shall be the average rate levied upon other property in this state under the general ad valorem tax law, or, if the legislature provides, the rate of tax applicable to the property of each business enterprise assessed by the state shall be the average rate of ad valorem taxation levied upon other property in all counties in which any of such property is situated.

Sec. 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount; or to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

Sec. 7. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

Sec. 8. The legislature shall not impose a sales tax on retailers at a rate of more than four percent of their gross taxable sales of tangible personal property.

Sec. 9. All specific taxes, except general sales and use taxes and regulatory fees, imposed directly or indirectly on fuels sold or used to propel motor vehicles upon highways and on registered motor vehicles shall, after the payment of necessary collection expenses, be used exclusively for highway purposes as defined by law.

Sec. 10. One-eighth of all taxes imposed on retailers on taxable sales at retail of tangible personal property shall be used exclusively for assistance to townships, cities and villages, on a population basis as provided by law. In determining population the legislature may exclude any portion of the total number of persons who are wards, patients or convicts in any tax supported institution.

Sec. 11. There shall be established a state school aid fund which shall be used exclusively for the support of public education and school

employees' retirement systems, as provided by law. One-half of all taxes imposed on retailers on taxable sales at retail of tangible personal property, and other tax revenues provided by law, shall be dedicated to this fund. Payments from this fund shall be made in full on a scheduled basis, as provided by law.

Sec. 12. No evidence of state indebtedness shall be issued except for debts authorized pursuant to this constitution.

Sec. 13. Public bodies corporate shall have power to borrow money and to issue their securities evidencing debt, subject to this constitution and law.

Sec. 14. To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 percent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

Sec. 15. The state may borrow money for specific purposes in amounts as may be provided by acts of the legislature adopted by a vote of two-thirds of the members elected to and serving in each house, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

Sec. 16. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

If the minimum amount which would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as finally equalized, or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall lend the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall lend to it an amount sufficient to enable the school district to make the payment.

The term "qualified bonds" means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued prior to May 4, 1955, or issued thereafter and qualified as provided by law pursuant to Section 27 or Section 28 of Article X of the Constitution of 1908 or pursuant to this section.

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used toward the repayment of state loans. In any year when such levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Subject to the foregoing provisions, the legislature shall have the power to prescribe and to limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

The power to tax for the payment of principal and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made to school districts, shall be without limitation as to rate or amount.

All rights acquired under Sections 27 and 28 of Article X of the Constitution of 1908, by holders of bonds heretofore issued, and all obligations assumed by the state or any school district under these sections, shall remain unimpaired.

Sec. 17. No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

Sec. 18. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

This section shall not be construed to prohibit the investment of public funds until needed for current requirements or the investment of funds accumulated to provide retirement or pension benefits for public officials and employees, as provided by law.

Sec. 19. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation, except that funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law; and endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

Sec. 20. No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money

shall be deposited in any bank in excess of 50 percent of the capital and surplus of such bank. Any bank receiving deposits of state money shall show the amount of state money so deposited as a separate item in all published statements.

Sec. 21. The legislature shall provide by law for the annual accounting for all public moneys, state and local, and may provide by law for interim accounting.

The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.

Sec. 22. Procedures for the examination and adjustment of claims against the state shall be prescribed by law.

Sec. 23. All financial records, accountings, audit reports and other reports of public moneys shall be public records and open to inspection. A statement of all revenues and expenditures of public moneys shall be published and distributed annually, as provided by law.

Sec. 24. The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby.

Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be used for financing unfunded accrued liabilities.

Article X
Property

Sec. 1. The disabilities of coverture as to property are abolished. The real and personal estate of every woman acquired before marriage and all real and personal property to which she may afterwards become entitled shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be dealt with and disposed of by her as if she were unmarried. Dower may be relinquished or conveyed as provided by law.

Sec. 2. Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law. The amount of compensation shall be determined in proceedings in a court of record.

Sec. 3. A homestead in the amount of not less than $3,500 and personal property of every resident of this state in the amount of not less than $750, as defined by law, shall be exempt from forced sale on execution or other process of any court. Such exemptions shall not extend to any lien thereon excluded from exemption by law.

Sec. 4. Procedures relating to escheats and to the custody and disposition of escheated property shall be prescribed by law.

Sec. 5. The legislature shall have general supervisory jurisdiction over all state owned lands useful for forest preserves, game areas and recreational purposes; shall require annual reports as to such lands from all departments having supervision or control thereof; and shall by general law provide for the sale, lease or other disposition of such lands.

The legislature by an act adopted by two-thirds of the members elected to and serving in each house may designate any part of such lands as a state land reserve. No lands in the state land reserve may be removed from the reserve, sold, leased or otherwise disposed of except by an act of the legislature.

Sec. 6. Aliens who are residents of this state shall enjoy the same rights and privileges in property as citizens of this state.

Article XI
Public Officers and Employment

Sec. 1. All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of ..... according to the best of my ability. No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.

Sec. 2. The terms of office of elective state officers, members of the legislature and justices and judges of courts of record shall begin at twelve o'clock noon on the first day of January next succeeding their election, except as otherwise provided in this constitution. The terms of office of county officers shall begin on the first day of January next succeeding their election, except as otherwise provided by law.

Sec. 3. Neither the legislature nor any political subdivision of this state shall grant or authorize extra compensation to any public officer, agent or contractor after the service has been rendered or the contract entered into.

Sec. 4. No person having custody or control of public moneys shall be a member of the legislature, or be eligible to any office of trust or profit under this state, until he shall have made an accounting, as provided by law, of all sums for which he may be liable.

Sec. 5. The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the principal executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legis-

lature, employees of the state institutions of higher education, all persons in the armed forces of the state, eight exempt positions in the office of the governor, and within each principal department, when requested by the department head, two other exempt positions, one of which shall be policy-making. The civil service commission may exempt three additional positions of a policy-making nature within each principal department.

The civil service commission shall be non-salaried and shall consist of four persons, not more than two of whom shall be members of the same political party, appointed by the governor for terms of eight years, no two of which shall expire in the same year.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursments for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

No person shall be appointed to or promoted in the classified service who has not been certified by the commission as qualified for such appointment or promotion. No appointments, promotions, demotions or removals in the classified service shall be made for religious, racial or partisan considerations.

Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year. Within 60 calendar days following such transmission, the legislature may, by a two-thirds vote of the members elected to and serving in each house, reject or reduce increases in rates of compensation authorized by the commission. Any reduction ordered by the legislature shall apply uniformly to all classes of employees affected by the increases and shall not adjust pay differentials already established by the civil service commission. The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission.

The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition of a position shall have a right of appeal to the commission through established grievance procedures.

The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within six months after the conclusion of each fiscal year the commission shall return to the state treasury all moneys unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

No payment for personal services shall be made or authorized until the provisions of this constitution pertaining to civil service have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

Sec. 6. By ordinance or resolution of its governing body which shall not take effect until approved by a majority of the electors voting thereon, unless otherwise provided by charter, each county, township, city, village, school district and other governmental unit or authority may establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services to any such unit on a reimbursable basis.

Sec. 7. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected and serving shall be necessary to direct an impeachment.

When an impeachment is directed, the house of representatives shall elect three of its members to prosecute the impeachment.

Every impeachment shall be tried by the senate immediately after the final adjournment of the legislature. The senators shall take an oath or affirmation truly and impartially to try and determine the impeachment according to the evi-

dence. When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside.

No person shall be convicted without the concurrence of two-thirds of the senators elected and serving. Judgment in case of conviction shall not extend further than removal from office, but the person convicted shall be liable to punishment according to law.

No judicial officer shall exercise any of the functions of his office after an impeachment is directed until he is acquitted.

Article XII
Amendment & Revision

Sec. 1. Amendments to this constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by two-thirds of the members elected to and serving in each house on a vote with the names and vote of those voting entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct. If a majority of electors voting on a proposed amendment approve the same, it shall become part of the constitution and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved.

Sec. 2. Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. The person authorized by law to receive such petition shall upon its receipt determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next general election. Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.

If the proposed amendment is approved by a majority of the electors voting on the question, it shall become part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. If two or more amendments approved by the electors at the same election conflict, that amendment receiving the highest affirmative vote shall prevail.

Sec. 3. At the general election to be held in the year 1978, and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than six months after the proposal was certified as approved, the electors of each representative district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate at a partisan election. The delegates so elected shall convene at the seat of government on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. The governor shall appoint a qualified resident of the same district to fill a vacancy in the office of any delegate who shall be a member of the same party as the delegate vacating the office. The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, with the names and vote of those voting entered in the

journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

Schedule and Temporary Provisions

To insure the orderly transition from the constitution of 1908 to this constitution the following schedule and temporary provisions are set forth to be effective for such period as are thereby required.

Sec. 1. The attorney general shall recommend to the legislature as soon as practicable such changes as may be necessary to adapt existing laws to this constitution.

Sec. 2. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights existing on the effective date of this constitution shall continue unaffected except as modified in accordance with the provisions of this constitution.

Sec. 3. Except as otherwise provided in this constitution, all officers filling any office by election or appointment shall continue to exercise their powers and duties until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or the laws enacted pursuant thereto.

No provision of this constitution, or of law or of executive order authorized by this constitution shall shorten the term of any person elected to state office at a statewide election on or prior to the date on which this constitution is submitted to a vote. In the event the duties of any such officers shall not have been abolished or incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated or abolished.

Sec. 4. All officers elected at the same election that this constitution is submitted to the people for adoption shall take office and complete the term to which they were elected under the 1908 constitution and existing laws and continue to serve until their successors are elected and qualified pursuant to this constitution or law.

Sec. 5. Notwithstanding any other provision in this constitution, the governor, the lieutenant governor, the secretary of state, the attorney general, and state senators shall be elected at the general election in 1964 to serve for two year terms beginning on the first day of January next succeeding their election. The first election of such officers for four-year terms under this constitution shall be held at the general election in 1966.

Sec. 6. The state shall be districted for the purpose of electing senators in accordance with the provisions of Section 2 of Article IV of this constitution, after the official publication of the total population count of the 1970 decennial federal census. Until the apportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution shall remain intact except that upon the adoption of this constitution each of the counties of Kent, Genesee, Macomb and Oakland shall be divide by the apportionment commission into two senatorial districts and Wayne county into eight senatorial districts in accordance with this constitution. The legislature may give prior effect to Section 2 of Article IV of this constitution, which action shall not be subject to veto by the governor.

Sec. 7. Notwithstanding the provisions of this constitution that the supreme court shall consist of seven justices it shall consist of eight justices until the time that a vacancy occurs as a result of death, retirement or resignation of a justice. The first such vacancy shall not be filled.

Sec. 8. Any judge of probate serving on the effective date of this constitution may serve the remainder of the term and be eligible to succeed himself for election regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

Sec. 9. The provisions of Article VI providing that terms of judicial offices shall not all expire at the same time, shall be implemented by law providing that at the next election for such offices judges shall be elected for terms of varying length, none of which shall be shorter than the regular term provided for the office.

Sec. 10. The members of the state board of education provided for in Section 3 of Article VIII of this constitution shall first be elected at the first general election after the effective date of this constitution for the following terms: two shall be elected for two years, two for four years, two for six years, and two for eight years as prescribed by law.

The State Board of Education provided for in the constitution of 1908 is abolished at twelve o'clock noon January 1 of the year following the first general election under this constitution and the terms of members thereof shall then expire.

Sec. 11. The provisions of this constitution providing for members of boards of control of institutions of higher education and the State Board of Public Community and Junior Colleges shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be

extended, and may further provide that the initial terms of office of members may be less than eight years.

Sec. 12. The provisions of this constitution increasing the number of members of the Board of Trustees of Michigan State University and of the Board of Governors of Wayne State University to eight, and of their term of office to eight years, shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended one year, and may further provide that the initial terms of office of the additional members may be less than eight years.

Sec. 13. The initial allocation of departments by law pursuant to Section 2 of Article V of this constitution, shall be completed within two years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make the initial allocation.

Sec. 14. Contractual obligations of the state incurred pursuant to the constitution of 1908 shall continue to be obligations of the state.

For the retirement of notes and bonds issued under Section 26 of Article X of the 1908 constitution, there is hereby appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each year.

Sec. 15. The legislature by a vote of two-thirds of the members elected to and serving in each house may provide that the state may borrow money and may pledge its full faith and credit for refunding any bonds issued by the Mackinac Bridge Authority and at the time of refunding the Mackinac Bridge Authority shall be abolished and the operation of the bridge shall be assumed by the state highway department. The legislature may implement this section by law.

Sec. 16. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the Tuesday after the first Monday of November, 1962. It shall be the duty of the secretary of state forthwith to give notice of such submission to all other officers required to give or publish any notice in regard to a general election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.

Sec. 17. Every registered elector may vote on the adoption of the constitution. The board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office, the words: Shall the revised constitution be adopted? ( ) Yes. ( ) No. All votes cast at the election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. If the revised constitution so submitted receives more votes in its favor than were cast against it, it shall be the supreme law of the state on and after the first day of January of the year following its adoption.

committee on style and drafting as offered and considered read, including the additional changes made by said committee on August 1. (For text as referred to said committee, see above, page 3275):

1. Amend article II, section 6 (column 2) line 49, after "electors" by striking out "which involves" and inserting "for"; and after "increase of" by striking out "any" and inserting "the"; and line 50, after "limitation" by inserting "imposed by Section 6 of Article IX"; and line 51, after "or" by inserting "for".

2. Amend article II, section 9 (column 2) line 8, after "electors" by striking out "or three-fourths of the members elected to and serving in each house of the legislature.", and inserting "unless otherwise provided in the initiative measure or by three-fourths of the members elected to and serving in each house of the legislature.".

3. Amend article III, section 5 (column 2) line 36, after "subdivision" by inserting "thereof".

4. Amend article IV, section 2 (column 1) line 24, after "assigned" by striking out "an apportionment factor" and inserting "factors".

5. Amend article IV, section 2 (column 2) line 1, after "two or more" by striking out "senate districts" and inserting "senators".

6. Amend article IV, section 3 (column 2) line 54, after "population" by inserting a comma.

7. Amend article IV, section 6 (column 1) line 14, by striking out "persons" and inserting "electors"; and line 24, after "party.", by striking out "One member of the commission shall be selected by each political party organization from each of the following four regions:", and inserting "One resident of each of the following four regions shall be selected by each political party organization:"; and line 27, after "(1)" do not capitalize "the"; and after "(2)" do not capitalize "the"; and line 31, after "(3)" do not capitalize "southwestern"; and line 35, after "(4)" do not capitalize "southeastern".

8. Amend article IV, section 6 (column 2) line 38, after "state or the" by striking out "apportionment".

9. Amend article IV, section 8 (column 2) line 56, after "public and" by striking out "officers" and inserting "members".

10. Amend article IV, section 17 (column 2) line 10, after "committees.", by striking out the sentence which reads, "Each committee shall by roll call vote record the vote and name of all action on bills and resolutions taken in the committee.", and inserting "On all actions on bills and resolutions in each committee, names and votes of members shall be recorded.".

11. Amend article IV, section 33 (column 2) line 1, after "If he" by striking out "does not approve" and inserting "disapproves".

12. Amend article IV, section 37 (column 2) line 36, after "Sec. 37.", by striking out the entire section which reads, "The legislature may by concurrent resolution empower a joint committee of the legislature acting between sessions to suspend until the end of the next regular legislative session any rule or regulation of an administrative agency promulgated when the legislature is not in regular session.", and inserting "The legislature may by concurrent resolution empower a joint committee of the legislature, acting between sessions, to suspend any rule or regulation promulgated by an administrative agency subsequent to the adjournment of the last preceding regular legislative session. Such suspension shall continue no longer than the end of the next regular legislative session.".

13. Amend article V, section 2 (column 1) line 4, after "full" by inserting "regular".

14. Amend article V, section 5 (column 1) line 43, after "Sec. 5.", by striking out the entire section which reads, "At no time shall an examining or licensing board of a profession include less than a majority of members of that profession.", and inserting "A majority of the members of an appointed examining or licensing board of a profession shall be members of that profession.".

15. Amend article V, section 18 (column 1) line 31, after "submit" by striking out "any".

16. Amend article V, section 25 (column 2) line 24, after "vote" by inserting a comma; and line 25, by striking out "except in case of equal division.", and inserting "unless they be equally divided.".

17. Amend article V, section 28 (column 1) line 10, after "same year" by inserting a comma.

18. Amend article VI, section 1 (column 2) line 2, by striking out "other".

19. Amend article VI, section 3 (column 2) line 20, by striking out "other".

20. Amend article VI, section 4 (column 2) line 28, after "hear" by striking out the comma.

21. Amend article VI, section 8 (column 1) line 2, after "appeals" by striking out "may".

22. Amend article VI, section 18 (column 2) line 38, after "increased" by striking out the comma.

23. Amend article VI, section 26 (column 1) line 52, do not capitalize "article".

24. Amend article VI, section 28 (column 2) following line 16, by striking out the entire second paragraph [This paragraph added by amendment on May 11, see above, page 3240; for section as amended, see above, page 3275] which reads:

"No appeal may be taken to any court from a decision of the state tax commission fixing the value of described property for property tax purposes or determining an appeal from a decision of the county tax allocation board.", and inserting a new paragraph to read as follows:

"In the absence of fraud, error of law or the adoption of wrong principles, no appeal may be taken to any court from any final agency provided for the administration of property tax laws from any decision relating to valuation or allocation.".

25. Amend article VII, section 31 (column 2) line 36, after "alley" by striking out the comma.

26. Amend article VIII, section 4 (column 1) line 40, capitalize "University".

27. Amend article VIII, section 8 (column 2) line 56, after "programs" by striking out the comma; and line 58, after "mentally" by striking out the comma.

28. Amend article VIII, section 9 (column 1) line 6, after "counties,", by striking out "cities and townships" and inserting "townships and cities".

29. Amend article IX, section 11 (column 2) line 60, after "for" by striking out "the support of public education" and inserting "aid to school districts, higher education".

30. Amend article XI, section 5 (column 2) line 8, after "tion" by inserting "or creation".

31. Amend article XI, section 7 (column 2) line 51, after "elected" by inserting "thereto"; and after "serving" by inserting "therein".

32. Amend article XII, the title (column 1) after "Amendment" by striking out "&" and inserting "and".

33. Amend article XII, section 3 (column 2) line 41, after "bers.", by striking out "The governor shall appoint a qualified resident of the same district to fill a vacancy in the office of any delegate who shall be a member of the same party as the delegate vacating the office.", and inserting "To fill a vacancy in the office of any delegate, the governor shall appoint a qualified resident of the same district who shall be a member of the same party as the delegate vacating the office.".

34. Amend the schedule, section 5 (column 1) line 58, after "general" by striking out the comma; and line 59, after "two" by inserting a hyphen, so that it will read "two-year".

35. Amend the schedule, section 6 (column 2) line 12, after "1908 constitution" by inserting "as amended in 1952".

36. Amend the schedule, section 6 (column 2) line 15, after "shall be" by striking out "divide" and inserting "divided".

against the secretary of state, by Mr. Van Dusen, chairman, submits the following report:

In accordance with Resolution 96, the committee on action against secretary of state on May 14, 1962, filed with the circuit court for the county of Ingham, a petition for declaration of rights in an action entitled, Stephen S. Nisbet, President of the Michigan Constitutional Convention of 1961-1962 v. James M. Hare, Secretary of State. The relief sought was a declaration that the convention has the right to provide for submission of the proposed new constitution to the electors at the general election to be held November 6, 1962. The summons and petition were served on the secretary of state on the same day.

On May 22, having had no response from the attorney general, petitioner filed a motion for the entry of a decree. On May 25, the secretary of state appeared specially by the attorney general and moved to dismiss the petition on the ground that the case did not present an actual controversy. The trial court heard argument on the attorney general's motion on June 1 and on June 6 rendered an opinion denying the motion to dismiss. An order to that effect was entered on June 11.

Instead of proceeding to file an answer, the attorney general then filed an application to the supreme court for leave to appeal. This application was granted by the supreme court and the attorney general, on July 2, filed a claim of appeal.

The attorney general has not yet filed a brief and he states that he does not intend to do so until after August 7.

It is obvious that no judicial determination of the right of the constitutional convention to require submission of the proposed constitution to the electors on November 6 will be made in time to be useful to the convention. Accordingly, the committee recommends:

1) That section 15 [formerly section 16] of the schedule and temporary provisions of the proposed constitution be amended by striking from the first sentence the words "Tuesday after the first Monday of November, 1962" and inserting "first Monday in April, 1963."

2) That the committee be authorized to discontinue the action entitled, Nisbet v. Hare.

Richard C. Van Dusen, chairman.

MR. VAN DUSEN: Mr. President, I move the adoption of the report.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that the report be adopted. Those in favor will say aye. Opposed, no.

The report is adopted. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, in compliance with our rules, I think it would now be necessary to take a roll call vote on the amendment to the constitution changing the date.

PRESIDENT NISBET: Mr. Chase will read the amendment.

SECRETARY CHASE: The amendment recommended in the report is as follows:

1. Amend the schedule, section 15 [formerly section 16] (column 2) line 11, after "held on the" by striking out "Tuesday after the first Monday of November, 1962.", and inserting "first Monday in April, 1963.".

PRESIDENT NISBET: The secretary will call the roll. Those in favor of the amendment will vote aye as your name is called. Those opposed will vote no.

The roll was called and the delegates voted as follows:

Yeas—141

Allen	Goebel	Page
Andrus, Miss	Gover	Pellow
Anspach	Greene	Perlich
Austin	Gust	Perras
Baginski	Habermehl	Plank
Balcer	Hanna, W. F.	Pollock
Barthwell	Hannah, J. A.	Powell
Batchelor	Hart, Miss	Prettie
Beaman	Haskill	Pugsley
Bentley	Hatch	Radka
Binkowski	Hatcher, Mrs.	Rajkovich
Blandford	Heideman	Richards, J. B.
Bledsoe	Higgs	Richards, L. W.
Bonisteel	Hood	Romney
Boothby	Howes	Rood
Bowens	Hoxie	Rush
Bradley	Hubbs	Sablich
Brake	Hutchinson	Seyferth
Brown, G. E.	Iverson	Shackleton
Brown, T. S.	Jones	Shaffer
Buback	Judd, Mrs.	Shanahan
Butler, Mrs.	Karn	Sharpe
Conklin, Mrs.	Kelsey	Sleder
Cudlip	Kirk, S.	Snyder
Cushman, Mrs.	Knirk, B.	Spitler
Danhof	Koeze, Mrs.	Stafseth
Dehnke	Krolikowski	Staiger
Dell	Kuhn	Stamm
DeVries	Lawrence	Sterrett
Donnelly, Miss	Leibrand	Stevens
Doty, Dean	Leppien	Stopczynski
Doty, Donald	Lesinski	Suzore
Douglas	Liberato	Thomson
Downs	Madar	Tubbs
Durst	Mahinske	Turner
Elliott, A. G.	Martin	Tweedie
Elliott, Mrs. Daisy	McAllister	Upton
Erickson	McCauley	Van Dusen
Everett	McGowan, Miss	Walker
Farnsworth	McLogan	Wanger
Faxon	Millard	White
Figy	Mosier	Wilkowski
Finch	Murphy	Wood
Follo	Nisbet	Woolfenden
Ford	Nord	Yeager
Gadola	Norris	Young
Garvin	Ostrow	Youngblood

Nays—0

SECRETARY CHASE: On the adoption of the amendment, the yeas are 141; the nays are none.

PRESIDENT NISBET: The amendment is adopted. The question now is on the **final passage of the constitution as amended** this morning. Those who are in favor will answer aye as your names are called. Those opposed will answer nay. The secretary will call the roll.

The roll was called and the delegates voted as follows:

Yeas—98

Allen	Gover	Powell
Andrus, Miss	Gust	Prettie
Anspach	Habermehl	Pugsley
Balcer	Hanna, W. F.	Radka
Batchelor	Hannah, J. A.	Rajkovich
Beaman	Haskill	Richards, J. B.
Bentley	Hatch	Richards, L. W
Blandford	Heideman	Romney
Bonisteel	Higgs	Rood
Boothby	Howes	Rush
Brake	Hoxie	Seyferth
Brown, G. E.	Hubbs	Shackleton
Butler, Mrs.	Hutchinson	Shaffer
Conklin, Mrs.	Iverson	Sharpe
Cudlip	Judd, Mrs.	Sleder
Cushman, Mrs.	Karn	Spitler
Danhof	Kirk, S.	Stafseth
Dehnke	Knirk, B.	Staiger
Dell	Koeze, Mrs.	Stamm
DeVries	Kuhn	Sterrett
Donnelly, Miss	Lawrence	Stevens
Doty, Dean	Leppien	Thomson
Doty, Donald	Martin	Tubbs
Durst	McCauley	Turner
Elliott, A. G.	McGowan, Miss	Tweedie
Erickson	McLogan	Upton
Everett	Millard	Van Dusen
Farnsworth	Mosier	Wanger
Figy	Nisbet	White
Finch	Page	Wood

Follo	Perras	Woolfenden
Gadola	Plank	Yeager
Goebel	Pollock	

Nays—43

Austin	Greene	Nord
Baginski	Hart, Miss	Norris
Barthwell	Hatcher, Mrs.	Ostrow
Binkowski	Hood	Pellow
Bledsoe	Jones	Perlich
Bowens	Kelsey	Sablich
Bradley	Krolikowski	Shanahan
Brown, T. S.	Leibrand	Snyder
Buback	Lesinski	Stopczynski
Douglas	Liberato	Suzore
Downs	Madar	Walker
Elliott, Mrs. Daisy	Mahinske	Wilkowski
Faxon	McAllister	Young
Ford	Murphy	Youngblood
Garvin		

SECRETARY CHASE: On the adoption of the constitution as amended, the yeas are 98; the nays are 43. (applause)

PRESIDENT NISBET: The **constitution** is adopted.

For the constitution as adopted, see below, page 3317.

Because of the hour, it being almost noon, the Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that the convention now stand in recess until 2:00 p.m.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that we recess until 2:00 p.m. Those in favor will say aye. Opposed, no.

The motion prevails. We are recessed until 2:00 o'clock.

[Whereupon, at 11:50 o'clock a.m., the convention recessed; and, at 2:00 o'clock p.m., reconvened.]

Will the delegates please take their seats. The convention will please come to order.

SECRETARY CHASE: Mr. President, a quorum of the convention is present.

PRESIDENT NISBET: I think we should recognize the fact that many of our employees are voluntarily back with us today, meeting with the delegates. I'm sure all of us are very happy to have them here. It brings about a happy result to see them and I think we ought to give them a good hand. (applause) Mr. Chase has an announcement.

SECRETARY CHASE: There are 3 announcements that possibly should have been made before we recessed for lunch.

First, there is mail for all of the delegates in the mail room downstairs.

Just prior to the May 11 adjournment, several of the delegates took out, on loan, sets of convention slides which have not been returned. Missing from our files are 12 complete sets of slides. Since we frequently have call from other delegates for the use of these slides, we would appreciate their return as soon as possible. Ink White, chairman of the committee on public information.

I am sure the delegates recall the lady on the civic center staff who took such good care of keeping the windows clean and the place well slicked up, who had to go to the hospital for a very critical operation. A number of the delegates contributed to a fund to help her over her financial difficulties. I have the following card:

> It is very difficult to express my appreciation to all the wonderful people of con con. Let me say, with my heart, your kindness and generosity will always be remembered.
>
> Sincerely,
> Freda Adams.

PRESIDENT NISBET: Since the adjournment on May 11, we have added 2 new associate members to the delegation: Mrs. Charles Follo and Mrs. Gil Wanger.

I asked Charlie if Mrs. Follo was present so that he might present her, but he said she isn't. We are sorry, Charlie, she couldn't be with us.

Mr. Wanger, is your associate delegate present? Would you present her?

[Whereupon, the delegates accorded Mrs. Wanger a standing ovation.]

At the final session before the long recess the president was authorized to name a reunion committee for the constitutional convention. Accordingly, the **president appoints,** as members of the reunion committee: Mr. Erickson, Mrs. Koeze, Messrs. Jones, Bowens, Brake, Mrs. Conklin, Mr. Dean Doty, Mrs. Daisy Elliott, Messrs. Faxon, Kelsey, Kuhn, Powell, Sharpe, Wanger, White and Norris.

Without objection, the appointments are approved. You will notice that most of these delegates are within the area of Lansing, Detroit or Grand Rapids for their ease in getting together when they have to meet. Mr. Claud Erickson is chairman of the committee.

Returning to the order of business, **approval of address to people.** We will take up the **report of the committee on public information.** Mr. White, chairman.

MR. WHITE: Mr. President, under date of June 26, 1962, each delegate was mailed proof copies of the proposed address to the people. Since that time our committee has received numerous suggestions for corrections, additions, deletions and so on. Our committee has met and gone over these suggestions and they have been, for the most part, agreed to. I might say, parenthetically, the address in its present corrected form represents the writing and editing of upwards of 50 of our delegates.

Under date of July 27, 1962, each of you was mailed a 16 page multilith report which outlined in detail some 108 corrections. This communication also carried the recommendation that we be authorized to correct the text of the constitution as it appears in the address to conform with the style and drafting changes adopted at today's session, and to offer comments accordingly, if necessary. All of this material has been delivered again to each delegate's desk today. Additionally, you have a single white multilith sheet from our committee containing brief addenda to this 16 page report.

It seems to me, Mr. President, the delegates have had ample time to consider these matters, and to expedite our final deliberations, I move that the report of the public information committee, with the recommended addenda, be considered read.

PRESIDENT NISBET: Without objection, it is so ordered.

Following is the report as submitted and considered read:

After careful consideration of suggestions from delegates, your committee on public information recommends the adoption of the following changes in the proof copy of the address to the people:

For document incorporating following changes, see below, page 3355. Page numbers in report refer to document pages.

1. Amend page 2, second full paragraph, line 3, after "that one" by striking out "must" and inserting "should"; to improve phraseology.

2. Amend page 2, third full paragraph, line 1, by striking out "Ordered by popular vote, its delegates selected by the people on the basis of one from each senatorial and representative district, the Constitutional Convention of 1961-62 met in Lansing on October 3, 1961.", and inserting "The convention was ordered by popular vote in April of 1961. There were 144 delegates, representing Michigan's 34 State Senatorial districts and 110 State Representative seats. They were elected in statewide voting on September 12, 1961, and convened at Lansing on October 3, 1961."; to improve awkward sentence construction and correct error by indicating "seats" rather than representative "districts."

3. Amend page 2, fifth full paragraph, line 2, after "overlapped" by striking out "each other"; to improve phraseology.

4. Amend page 2, fifth full paragraph, line 6, after

CONSTITUTION
OF THE
STATE OF MICHIGAN

as finally adopted
by the Convention
August 1, 1962

PREAMBLE

We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

ARTICLE I

Declaration of Rights

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation.

Sec. 3. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances.

Sec. 4. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Sec. 5. Every person may freely speak, write, express and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be enacted to restrain or abridge the liberty of speech or of the press.

Sec. 6. Every person has a right to keep and bear arms for the defense of himself and the state.

Sec. 7. The military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 8. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sec. 9. Neither slavery, nor involuntary servitude unless for the punishment of crime, shall ever be tolerated in this state.

Sec. 10. No bill of attainder, ex post facto law or law impairing the obligation of contract shall be enacted.

Sec. 11. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation. The provisions of this section shall not be construed to bar from evidence in any criminal proceeding any narcotic drug, firearm, bomb, explosive or any other dangerous weapon, seized by a peace officer outside the curtilage of any dwelling house in this state.

Sec. 12. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

Sec. 13. A suitor in any court of this state has the right to prosecute or defend his suit, either in his own proper person or by an attorney.

Sec. 14. The right of trial by jury shall remain, but shall be waived in all civil cases unless demanded by one of the parties in the manner prescribed by law. In all civil cases tried by 12 jurors a verdict shall be received when 10 jurors agree.

Sec. 15. No person shall be subject for the same offense to be twice put in jeopardy. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

Sec. 16. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

Sec. 18. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sec. 19. In all prosecutions for libels the truth may be given in evidence to the jury; and, if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

Sec. 20. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 jurors in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; to have an appeal as a matter of right; and in courts of record, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

Sec. 21. No person shall be imprisoned for debt arising out of or founded on contract, express or implied, except in cases of fraud or breach of trust.

Sec. 22. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act or on confession in open court.

Sec. 23. The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE II

Elections

Sec. 1. Every citizen of the United States who has attained the age of 21 years, who has resided in this state six months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

Sec. 2. The legislature may by law exclude persons from voting because of mental incompetence or commitment to a jail or penal institution.

Sec. 3. For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than six months and may waive residence requirements for former citizens of this state who have removed herefrom. The legislature shall not permit voting by any person who meets the voting residence requirements of the state to which he has removed.

Sec. 4. The legislature shall enact laws to regulate the time, place and manner of all nominations and elections, except as otherwise provided in this constitution or in the constitution and laws of the United States. The legislature shall enact laws to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames.

Sec. 5. Except for special elections to fill vacancies, or as otherwise provided in this constitution, all elections for national, state, county and township offices shall be held on the first Tuesday after the first Monday in November in each even-numbered year or on such other date as members of the congress of the United States are regularly elected.

Sec. 6. Whenever any question is required to be submitted by a political subdivision to the electors for the increase of the ad valorem tax rate limitation imposed by Section 6 of Article IX for a period of more than five years, or for the issue of bonds, only electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or electors who are the lawful husbands or wives of such persons shall be entitled to vote thereon. All electors in the district or territory affected may vote on all other questions.

Sec. 7. A board of state canvassers of four members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers. A majority of any board of canvassers shall not be composed of members of the same political party.

Sec. 8. Laws shall be enacted to provide for the recall of all elective officers except judges of courts of record upon petition of electors equal in number to 25 percent of the number of persons voting in the last preceding election for the office of governor in the electoral district of the officer sought to be recalled. The sufficiency of any statement of reasons or grounds procedurally required shall be a political rather than a judicial question.

Sec. 9. The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to approve or reject laws enacted by the legislature, called the referendum. The power of initiative extends only to laws which the legislature may enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds and must be invoked in the manner prescribed by law within 90 days following the final adjournment of the legislative session at which the law was enacted. To invoke the initiative or referendum, petitions signed by a number of registered electors, not less than eight percent for initiative and five percent for referendum of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected shall be required.

No law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election.

Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If the law so proposed is not enacted by the legislature within the 40 days, the state officer authorized by law shall submit such proposed law to the people for approval or rejection at the next general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by such state officer to the electors for approval or rejection at the next general election.

Any law submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No law initiated or adopted by the people shall be subject to the veto power of the governor, and no law adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors unless otherwise provided in the initiative measure or by three-fourths of the members elected to and serving in each house of the legislature. Laws approved by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. If two or more measures approved by the electors at the same election conflict, that receiving the highest affirmative vote shall prevail.

The legislature shall implement the provisions of this section.

ARTICLE III

General Government

Sec. 1. The seat of government shall be at Lansing.

Sec. 2. The powers of government are divided into three branches: legislative, executive and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.

Sec. 3. There shall be a great seal of the State of Michigan and its use shall be provided by law.

Sec. 4. The militia shall be organized, equipped and disciplined as provided by law.

Sec. 5. Subject to provisions of general law, this state or any political subdivision thereof, any governmental authority or any combination thereof may enter into agreements for the performance, financing or execution of their respective functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution. Any other provision of this constitution notwithstanding, an officer or employee of the state or of any such unit of government or subdivision or agency thereof may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service. The legislature may impose such restrictions, limitations or conditions on such service as it may deem appropriate.

Sec. 6. The state shall not be a party to, nor be financially interested in, any work of internal improvement, nor engage in carrying on any such work, except for public internal improvements provided by law.

Sec. 7. The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are changed, amended or repealed.

Sec. 8. Either house of the legislature or the governor may request the opinion of the supreme court on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date.

ARTICLE IV

Legislative Branch

Sec. 1. The legislative power of the State of Michigan is vested in a senate and a house of representatives.

Sec. 2. The senate shall consist of 38 members to be elected from single member districts at the same election as the governor for four-year terms concurrent with the term of office of the governor.

In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned apportionment factors equal to the sum of its percentage of the state's population as shown by the last regular federal decennial census computed to the nearest one-one hundredth of one percent multiplied by four and its percentage of the state's land area computed to the nearest one-one hundredth of one percent.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties is entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.

(2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there is a failure to comply with the above standards.

(3) Counties entitled to two or more senators shall be divided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

Sec. 3. The house of representatives shall consist of 110 members elected for two-year terms from single member districts apportioned on a basis of population as provided in this article. The districts shall consist of compact and convenient territory contiguous by land.

Each county which has a population of not less than seven-tenths of one percent of the population of the state shall constitute a separate representative area. Each county having less than seven-tenths of one percent of the population of the state shall be combined with another county or counties to form a representative area of not less than seven-tenths of one percent of the population of the state. Any county which is isolated under the initial allocation as provided in this section shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one representative.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to two or more representatives shall be divided into single member representative districts as follows:

(1) The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the representative area by the number of representatives to which it is entitled.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population, adhering to county lines.

Sec. 4. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial district in the city with which it is combined, if provided by ordinance of the city. The district or districts with which the territory shall be combined shall be determined by such ordinance certified to the secretary of state. No such change in the boundaries of a representative or senatorial district shall have the effect of removing a legislator from office during his term.

Sec. 5. Island areas are considered to be contiguous by land to the county of which they are a part.

Sec. 6. A commission on legislative apportionment is hereby established consisting of eight electors, four of whom shall be selected by the state organizations of each of the two political parties whose candidates for governor received the highest vote at the last general election at which a governor was elected preceding each apportionment. If a candidate for governor of a third political party has received at such election more than 25 percent of such gubernatorial vote, the commission shall consist of 12 members, four of whom shall be selected by the state organization of the third political party. One resident of each of the following four regions shall be selected by each political party organization: (1) the upper peninsula; (2) the northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) southwestern Michigan, those counties south of region (2) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) southeastern Michigan, the remaining counties of the state.

No officers or employees of the federal, state or local governments, excepting notaries public and members of the armed forces reserve, shall be eligible for membership on the commission. Members of the commission shall not be eligible for election to the legislature until two years after the apportionment in which they participated becomes effective.

The commission shall be appointed immediately after the adoption of this constitution and whenever apportionment or districting of the legislature is required by the provisions of this constitution. Members of the commission shall hold office until each apportionment or districting plan becomes effective. Vacancies shall be filled in the same manner as for original appointment.

The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman, shall make its own rules of procedure, and shall receive compensation provided by law. The legislature shall appropriate funds to enable the commission to carry out its activities.

Within 30 days after the adoption of this constitution, and after the official total population count of each federal decennial census of the state and its political subdivisions is available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to district and apportion the senate and house of representatives according to the provisions of this constitution. All final decisions shall require the concurrence of a majority of the members of the commission. The commission shall hold public hearings as may be provided by law.

Each final apportionment and districting plan shall be published as provided by law within 30 days from the date of its adoption and shall become law 60 days after

publication. The secretary of state shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of each plan.

If a majority of the commission cannot agree on a plan, each member of the commission, individually or jointly with other members, may submit a proposed plan to the supreme court. The supreme court shall determine which plan complies most accurately with the constitutional requirements and shall direct that it be adopted by the commission and published as provided in this section.

Upon the application of any elector filed not later than 60 days after final publication of the plan, the supreme court, in the exercise of original jurisdiction, shall direct the secretary of state or the commission to perform their duties, may review any final plan adopted by the commission, and shall remand such plan to the commission for further action if it fails to comply with the requirements of this constitution.

Sec. 7. Each senator and representative must be a citizen of the United States, at least 21 years of age, and an elector of the district he represents. The removal of his domicile from the district shall be deemed a vacation of the office. No person who has been convicted of subversion or who has within the preceding 20 years been convicted of a felony involving a breach of public trust shall be eligible for either house of the legislature.

Sec. 8. No person holding any office, employment or position under the United States or this state or a political subdivision thereof, except notaries public and members of the armed forces reserve, may be a member of either house of the legislature.

Sec. 9. No person elected to the legislature shall receive any civil appointment within this state from the governor, except notaries public, from the legislature, or from any other state authority, during the term for which he is elected.

Sec. 10. No member of the legislature nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest. The legislature shall further implement this provision by appropriate legislation.

Sec. 11. Senators and representatives shall be privileged from civil arrest and civil process during sessions of the legislature and for five days next before the commencement and after the termination thereof. They shall not be questioned in any other place for any speech in either house.

Sec. 12. The compensation and expense allowances of the members of the legislature shall be determined by law. Changes in compensation or expense allowances shall become effective only when legislators commence their terms of office after a general election.

Sec. 13. The legislature shall meet at the seat of government on the second Wednesday in January of each year at twelve o'clock noon. Each regular session shall adjourn without day, on a day determined by concurrent resolution, at twelve o'clock noon. Any business, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next regular session.

Sec. 14. A majority of the members elected to and serving in each house shall constitute a quorum to do business. A smaller number in each house may adjourn from day to day, and may compel the attendance of absent members in the manner and with penalties as each house may prescribe.

Sec. 15. There shall be a bi-partisan legislative council consisting of legislators appointed in the manner prescribed by law. The legislature shall appropriate funds for the council's operations and provide for its staff which shall maintain bill drafting, research and other services for the members of the legislature. The council shall periodically examine and recommend to the legislature revision of the various laws of the state.

Sec. 16. Each house, except as otherwise provided in this constitution, shall choose its own officers and determine the rules of its proceedings, but shall not adopt any rule that will prevent a majority of the members elected thereto and serving therein from discharging a committee from the further consideration of any measure. Each house shall be the sole judge of the qualifications, elections and returns of its members, and may, with the concurrence of two-thirds of all the members elected thereto and serving therein, expel a member. The reasons for such expulsion shall be entered in the journal, with the votes and names of the members voting upon the question. No member shall be expelled a second time for the same cause.

Sec. 17. Each house of the legislature may establish the committees necessary for the efficient conduct of its business and the legislature may create joint committees. On all actions on bills and resolutions in each committee, names and votes of members shall be recorded. Such vote shall be available for public inspection. Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in the journal in advance of the hearing.

Sec. 18. Each house shall keep a journal of its proceedings, and publish the same unless the public security otherwise requires. The record of the vote and name of the members of either house voting on any question shall be entered in the journal at the request of one-fifth of the members present. Any member of either house may dissent from and protest against any act, proceeding or resolution which he deems injurious to any person or the public, and have the reason for his dissent entered in the journal.

Sec. 19. All elections in either house or in joint convention and all votes on appointments submitted to the senate for advice and consent shall be published by vote and name in the journal.

Sec. 20. The doors of each house shall be open unless the public security otherwise requires.

Sec. 21. Neither house shall, without the consent of the other, adjourn for more than two intervening calendar days, nor to any place other than where the legislature may then be in session.

Sec. 22. All legislation shall be by bill and may originate in either house.

Sec. 23. The style of the laws shall be: The People of the State of Michigan enact.

Sec. 24. No law shall embrace more than one object, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title.

Sec. 25. No law shall be revised, altered or amended by reference to its title only. The section or sections of the act altered or amended shall be re-enacted and published at length.

Sec. 26. No bill shall be passed or become a law at any regular session of the legislature until it has been printed or reproduced and in the possession of each house for

at least five days. Every bill shall be read three times in each house before the final passage thereof. No bill shall become a law without the concurrence of a majority of the members elected to and serving in each house. On the final passage of bills, the votes and names of the members voting thereon shall be entered in the journal.

Sec. 27. No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.

Sec. 28. When the legislature is convened on extraordinary occasions in special session no bill shall be passed on any subjects other than those expressly stated in the governor's proclamation or submitted by special message.

Sec. 29. The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act shall take effect until approved by two-thirds of the members elected to and serving in each house and by a majority of the electors voting thereon in the district affected. Any act repealing local or special acts shall require only a majority of the members elected to and serving in each house and shall not require submission to the electors of such district.

Sec. 30. The assent of two-thirds of the members elected to and serving in each house of the legislature shall be required for the appropriation of public money or property for local or private purposes.

Sec. 31. The general appropriation bills for the succeeding fiscal period covering items set forth in the budget shall be passed or rejected in either house of the legislature before that house passes any appropriation bill for items not in the budget except bills supplementing appropriations for the current fiscal year's operation. Any bill requiring an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as passed by the legislature shall contain an itemized statement of estimated revenue by major source in each operating fund for the ensuing fiscal period, the total of which shall not be less than the total of all appropriations made from each fund in the general appropriation bills as passed.

Sec. 32. Every law which imposes, continues or revives a tax shall distinctly state the tax.

Sec. 33. Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated. That house shall enter such objections in full in its journal and reconsider the bill. If two-thirds of the members elected to and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by two-thirds of the members elected to and serving in that house. The vote of each house shall be entered in the journal with the votes and names of the members voting thereon. If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it.

Sec. 34. Any bill passed by the legislature and approved by the governor, except a bill appropriating money, may provide that it will not become law unless approved by a majority of the electors voting thereon.

Sec. 35. All laws enacted at any session of the legislature shall be published in book form within 60 days after final adjournment of the session, and shall be distributed in the manner provided by law. The prompt publication of judicial decisions shall be provided by law. All laws and judicial decisions shall be free for publication by any person.

Sec. 36. No general revision of the laws shall be made. The legislature may provide for a compilation of the laws in force, arranged without alteration, under appropriate heads and titles.

Sec. 37. The legislature may by concurrent resolution empower a joint committee of the legislature, acting between sessions, to suspend any rule or regulation promulgated by an administrative agency subsequent to the adjournment of the last preceding regular legislative session. Such suspension shall continue no longer than the end of the next regular legislative session.

Sec. 38. The legislature may provide by law the cases in which any office shall be vacant and the manner of filling vacancies where no provision is made in this constitution.

Sec. 39. In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state caused by enemy attack on the United States, the legislature may provide by law for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices; and enact other laws necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred by this section, elections shall always be called as soon as possible to fill any vacancies in elective offices temporarily occupied by operation of any legislation enacted pursuant to the provisions of this section.

Sec. 40. The legislature may by law establish a liquor control commission which, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof. The legislature may provide for an excise tax on such sales. Neither the legislature nor the commission may authorize the manufacture or sale of alcoholic beverages in any county in which a majority of the electors voting thereon shall prohibit the same.

Sec. 41. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

Sec. 42. The legislature may provide for the incorporation of ports and port districts, and confer power and authority upon them to engage in work of internal improvements in connection therewith.

Sec. 43. No general law providing for the incorporation of trust companies or corporations for banking purposes, or regulating the business thereof, shall be enacted, amended or repealed except by a vote of two-thirds of the members elected to and serving in each house.

Sec. 44. The legislature may authorize a trial by a jury of less than 12 jurors in civil cases.

Sec. 45. The legislature may provide for indeterminate sentences as punishment for crime and for the detention and release of persons imprisoned or detained under such sentences.

Sec. 46. No law shall be enacted providing for the penalty of death.

Sec. 47. The legislature may authorize the employment of chaplains in state institutions of detention or confinement.

Sec. 48. The legislature may enact laws providing for the resolution of disputes concerning public employees, except those in the state classified civil service.

Sec. 49. The legislature may enact laws relative to the hours and conditions of employment.

Sec. 50. The legislature may provide safety measures and regulate the use of atomic energy and forms of energy developed in the future, having in view the general welfare of the people of this state.

Sec. 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

Sec. 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction.

Sec. 53. The legislature by a majority vote of the members elected to and serving in each house, shall appoint an auditor general, who shall be a certified public accountant licensed to practice in this state, to serve for a term of eight years. He shall be ineligible for appointment or election to any other public office in this state from which compensation is derived while serving as auditor general and for two years following the termination of his service. He may be removed for cause at any time by a two-thirds vote of the members elected to and serving in each house. The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

The auditor general upon direction by the legislature may employ independent accounting firms or legal counsel and may make investigations pertinent to the conduct of audits. He shall report annually to the legislature and to the governor and at such other times as he deems necessary or as required by the legislature. He shall be assigned no duties other than those specified in this section.

Nothing in this section shall be construed in any way to infringe the responsibility and constitutional authority of the governing boards of the institutions of higher education to be solely responsible for the control and direction of all expenditures from the institutions' funds.

The auditor general, his deputy and one other member of his staff shall be exempt from classified civil service. All other members of his staff shall have classified civil service status.

ARTICLE V
Executive Branch

Sec. 1. The executive power is vested in the governor.

Sec. 2. All executive and administrative offices, agencies and instrumentalities of the executive branch of state government and their respective functions, powers and

duties, except for the office of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes.

Subsequent to the initial allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders and submitted to the legislature. Thereafter the legislature shall have 60 calendar days of a regular session, or a full regular session if of shorter duration, to disapprove each executive order. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, each order shall become effective at a date thereafter to be designated by the governor.

Sec. 3. The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer and an attorney general. When a single executive is the head of a principal department, unless elected or appointed as otherwise provided in this constitution, he shall be appointed by the governor by and with the advice and consent of the senate and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, unless elected or appointed as otherwise provided in this constitution, the members thereof shall be appointed by the governor by and with the advice and consent of the senate. The term of office and procedure for removal of such members shall be as prescribed in this constitution or by law.

Terms of office of any board or commission created or enlarged after the effective date of this constitution shall not exceed four years except as otherwise authorized in this constitution. The terms of office of existing boards and commissions which are longer than four years shall not be further extended except as provided in this constitution.

Sec. 4. Temporary commissions or agencies for special purposes with a life of no more than two years may be established by law and need not be allocated within a principal department.

Sec. 5. A majority of the members of an appointed examining or licensing board of a profession shall be members of that profession.

Sec. 6. Appointment by and with the advice and consent of the senate when used in this constitution or laws in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 session days after the date of such appointment. Any appointment not disapproved within such period shall stand confirmed.

Sec. 7. Vacancies in any office, appointment to which requires advice and consent of the senate, shall be filled by the governor by and with the advice and consent of the senate. A person whose appointment has been disapproved by the senate shall not be eligible for an interim appointment to the same office.

Sec. 8. Each principal department shall be under the supervision of the governor unless otherwise provided by this constitution. The governor shall take care that the laws be faithfully executed. He shall transact all necessary business with the officers of

government and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may initiate court proceedings in the name of the state to enforce compliance with any constitutional or legislative mandate, or to restrain violations of any constitutional or legislative power, duty or right by any officer, department or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize court proceedings against the legislature.

Sec. 9. Single executives heading principal departments and the chief executive officers of principal departments headed by boards or commissions shall keep their offices at the seat of government except as otherwise provided by law, superintend them in person and perform duties prescribed by law.

Sec. 10. The governor shall have power and it shall be his duty to inquire into the condition and administration of any public office and the acts of any public officer, elective or appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or for any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and shall report the reasons for such removal or suspension to the legislature.

Sec. 11. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an appointed or elected officer, other than a legislative or judicial officer, until he is reinstated or until the vacancy is filled in the manner prescribed by law or this constitution.

Sec. 12. The governor shall be commander-in-chief of the armed forces and may call them out to execute the laws, suppress insurrection and repel invasion.

Sec. 13. The governor shall issue writs of election to fill vacancies in the senate or house of representatives. Any such election shall be held in a manner prescribed by law.

Sec. 14. The governor shall have power to grant reprieves, commutations and pardons after convictions for all offenses, except cases of impeachment, upon such conditions and limitations as he may direct, subject to procedures and regulations prescribed by law. He shall inform the legislature annually of each reprieve, commutation and pardon granted, stating reasons therefor.

Sec. 15. The governor may convene the legislature on extraordinary occasions.

Sec. 16. The governor may convene the legislature at some other place when the seat of government becomes dangerous from any cause.

Sec. 17. The governor shall communicate by message to the legislature at the beginning of each session and may at other times present to the legislature information as to the affairs of the state and recommend measures he considers necessary or desirable.

Sec. 18. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, for all operating funds, the proposed expenditures and estimated revenue of the state. Proposed expenditures from any fund shall not exceed the estimated revenue thereof. On the same date, the governor shall submit to the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills to provide new or additional revenues to meet proposed expenditures. The amount of any surplus created or deficit incurred in any fund during the last preceding fiscal period shall be entered as an item in the budget and in one of the appropriation bills. The governor may submit amendments to appropriation bills to be offered in either house during consideration of the bill by that house, and shall submit bills to meet deficiencies in current appropriations.

Sec. 19. The governor may disapprove any distinct item or items appropriating moneys in any appropriation bill. The part or parts approved shall become law, and the item or items disapproved shall be void unless re-passed according to the method prescribed for the passage of other bills over the executive veto.

Sec. 20. No appropriation shall be a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures authorized by appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based. Reductions in expenditures shall be made in accordance with procedures prescribed by law. The governor may not reduce expenditures of the legislative and judicial branches or from funds constitutionally dedicated for specific purposes.

Sec. 21. The governor, lieutenant governor, secretary of state and attorney general shall be elected for four-year terms at the general election in each alternate even-numbered year.

The lieutenant governor, secretary of state and attorney general shall be nominated by party conventions in a manner prescribed by law. In the general election one vote shall be cast jointly for the candidates for governor and lieutenant governor nominated by the same party.

Vacancies in the office of the secretary of state and attorney general shall be filled by appointment by the governor.

Sec. 22. To be eligible for the office of governor or lieutenant governor a person must have attained the age of 30 years, and have been a registered elector in this state for four years next preceding his election.

Sec. 23. The governor, lieutenant governor, secretary of state and attorney general shall each receive the compensation provided by law in full payment for all services performed and expenses incurred during his term of office. Such compensation shall not be changed during the term of office except as otherwise provided in this constitution.

Sec. 24. An executive residence suitably furnished shall be provided at the seat of government for the use of the governor. He shall receive an allowance for its maintenance as provided by law.

Sec. 25. The lieutenant governor shall be president of the senate, but shall have no vote, unless they be equally divided. He may perform duties requested of him by the governor, but no power vested in the governor shall be delegated.

Sec. 26. In case of the conviction of the governor on impeachment, his removal from office, his resignation or his death, the lieutenant governor, the elected secretary of state, the elected attorney general and such other persons designated by law shall in that order be governor for the remainder of the governor's term.

In case of the death of the governor-elect, the lieutenant governor-elect, the secretary of state-elect, the attorney general-elect and such other persons designated by law shall become governor in that order at the commencement of the governor-elect's term.

If the governor or the person in line of succession to serve as governor is absent from the state, or suffering under an inability, the powers and duties of the office of governor shall devolve in order of precedence until the absence or inability giving rise to the devolution of powers ceases.

The inability of the governor or person acting as governor shall be determined by a majority of the supreme court on joint request of the president pro tempore of the senate and the speaker of the house of representatives. Such determination shall be final

and conclusive. The supreme court shall upon its own initiative determine if and when the inability ceases.

Sec. 27. The legislature shall provide that the salary of any state officer while acting as governor shall be equal to that of the governor.

Sec. 28. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as provided by law.

The state highway commission shall consist of four members, not more than two of whom shall be members of the same political party. They shall be appointed by the governor by and with the advice and consent of the senate for four-year terms, no two of which shall expire in the same year, as provided by law.

The state highway commission shall appoint and may remove a state highway director, who shall be a competent highway engineer and administrator. He shall be the principal executive officer of the state highway department and shall be responsible for executing the policy of the state highway commission.

Sec. 29. There is hereby established a civil rights commission which shall consist of eight persons, not more than four of whom shall be members of the same political party, who shall be appointed by the governor, by and with the advice and consent of the senate, for four-year terms not more than two of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

Appeals from final orders of the commission, including cease and desist orders and refusals to issue complaints, shall be tried de novo before the circuit court having jurisdiction provided by law.

ARTICLE VI

Judicial Branch

Sec. 1. The judicial power of the state is vested exclusively in one court of justice which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and courts of limited jurisdiction that the legislature may establish by a two-thirds vote of the members elected to and serving in each house.

Sec. 2. The supreme court shall consist of seven justices elected at non-partisan elections as provided by law. The term of office shall be eight years and not more than

two terms of office shall expire at the same time. Nominations for justices of the supreme court shall be in the manner prescribed by law. Any incumbent justice whose term is to expire may become a candidate for re-election by filing an affidavit of candidacy, in the form and manner prescribed by law, not less than 180 days prior to the expiration of his term.

Sec. 3. One justice of the supreme court shall be selected by the court as its chief justice as provided by rules of the court. He shall perform duties required by the court. The supreme court shall appoint an administrator of the courts and other assistants of the supreme court as may be necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.

Sec. 4. The supreme court shall have general superintending control over all courts; power to issue, hear and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.

Sec. 5. The supreme court shall by general rules establish, modify, amend and simplify the practice and procedure in all courts of this state. The distinctions between law and equity proceedings shall, as far as practicable, be abolished. The office of master in chancery is prohibited.

Sec. 6. Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent.

Sec. 7. The supreme court may appoint, may remove, and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of moneys appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

Sec. 8. The court of appeals shall consist initially of nine judges who shall be nominated and elected at non-partisan elections from districts drawn on county lines and as nearly as possible of equal population, as provided by law. The supreme court may prescribe by rule that the court of appeals sit in divisions and for the terms of court and the times and places thereof. Each such division shall consist of not fewer than three judges. The number of judges comprising the court of appeals may be increased, and the districts from which they are elected may be changed by law.

Sec. 9. Judges of the court of appeals shall hold office for a term of six years and until their successors are elected and qualified. The terms of office for the judges in each district shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 10. The jurisdiction of the court of appeals shall be provided by law and the practice and procedure therein shall be prescribed by rules of the supreme court.

Sec. 11. The state shall be divided into judicial circuits along county lines in each of which there shall be elected one or more circuit judges as provided by law. Sessions of the circuit court shall be held at least four times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or

counties within the circuit in which he is elected, and in other circuits as may be provided by rules of the supreme court. The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall be created, altered and discontinued on recommendation of the supreme court to reflect changes in judicial activity. No change in the number of judges or alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.

Sec. 12. Circuit judges shall be nominated and elected at non-partisan elections in the circuit in which they reside, and shall hold office for a term of six years and until their successors are elected and qualified. In circuits having more than one circuit judge their terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 13. The circuit court shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court.

Sec. 14. The clerk of each county organized for judicial purposes or other officer performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such county. The judges of the circuit court may fill a vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions.

Sec. 15. In each county organized for judicial purposes there shall be a probate court. The legislature may create or alter probate court districts of more than one county if approved in each affected county by a majority of the electors voting on the question. The legislature may provide for the combination of the office of probate judge with any judicial office of limited jurisdiction within a county with supplemental salary as provided by law. The jurisdiction, powers and duties of the probate court and of the judges thereof shall be provided by law. They shall have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. 16. One or more judges of probate as provided by law shall be nominated and elected at non-partisan elections in the counties or the probate districts in which they reside and shall hold office for terms of six years and until their successors are elected and qualified. In counties or districts with more than one judge the terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 17. No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or the amount of judicial activity of his office.

Sec. 18. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within a circuit, and of the probate judges within a county or district, shall be uniform, and may be increased but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

Each of the judges of the circuit court shall receive an annual salary as provided by law. In addition to the salary received from the state, each circuit judge may receive from any county in which he regularly holds court an additional salary as determined

from time to time by the board of supervisors of the county. In any county where an additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

Sec. 19. The supreme court, the court of appeals, the circuit court, the probate court and other courts designated as such by the legislature shall be courts of record and each shall have a common seal. Justices and judges of courts of record must be persons who are licensed to practice law in this state. No person shall be elected or appointed to a judicial office after reaching the age of 70 years.

Sec. 20. Whenever a justice or judge removes his domicile beyond the limits of the territory from which he was elected, he shall have vacated his office.

Sec. 21. Any justice or judge of a court of record shall be ineligible to be nominated for or elected to an elective office other than a judicial office during the period of his service and for one year thereafter.

Sec. 22. Any elected judge of the court of appeals, circuit court or probate court may become a candidate in the primary election for the office of which he is the incumbent by filing an affidavit of candidacy in the form and manner prescribed by law.

Sec. 23. A vacancy in the elective office of a judge of any court of record shall be filled at a general or special election as provided by law. The supreme court may authorize persons who have served as judges and who have retired, to perform judicial duties for the limited period of time from the occurrence of the vacancy until the successor is elected and qualified. Such persons shall be ineligible for election to fill the vacancy.

Sec. 24. There shall be printed upon the ballot under the name of each elected incumbent justice or judge who is a candidate for nomination or election to the same office the designation of that office.

Sec. 25. For reasonable cause, which is not sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of two-thirds of the members elected to and serving in each house of the legislature. The cause for removal shall be stated at length in the resolution.

Sec. 26. The offices of circuit court commissioner and justice of the peace are abolished at the expiration of five years from the date this constitution becomes effective or may within this period be abolished by law. Their jurisdiction, compensation and powers within this period shall be as provided by law. Within this five-year period, the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law. The location of such court or courts, and the qualifications, tenure, method of election and salary of the judges of such court or courts, and by what governmental units the judges shall be paid, shall be provided by law, subject to the limitations contained in this article.

Statutory courts in existence at the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until they are abolished by law.

Sec. 27. The supreme court, the court of appeals, the circuit court, or any justices or judges thereof, shall not exercise any power of appointment to public office except as provided in this constitution.

Sec. 28. All final decisions, findings, rulings and orders of any administrative officer or agency existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights or licenses, shall be subject to direct review by the courts as

provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law; and, in cases in which a hearing is required, whether the same are supported by competent, material and substantial evidence on the whole record. Findings of fact in workmen's compensation proceedings shall be conclusive in the absence of fraud unless otherwise provided by law.

In the absence of fraud, error of law or the adoption of wrong principles, no appeal may be taken to any court from any final agency provided for the administration of property tax laws from any decision relating to valuation or allocation.

Sec. 29. Justices of the supreme court, judges of the court of appeals, circuit judges and other judges as provided by law shall be conservators of the peace within their respective jurisdictions.

ARTICLE VII

Local Government

Sec. 1. Each organized county shall be a body corporate with powers and immunities provided by law.

Sec. 2. Any county may frame, adopt, amend or repeal a county charter in a manner and with powers and limitations to be provided by general law, which shall among other things provide for the election of a charter commission. The law may permit the organization of county government in form different from that set forth in this constitution and shall limit the rate of ad valorem property taxation for county purposes, and restrict the powers of charter counties to borrow money and contract debts. Each charter county is hereby granted power to levy other taxes for county purposes subject to limitations and prohibitions set forth in this constitution or law. Subject to law, a county charter may authorize the county through its regularly constituted authority to adopt resolutions and ordinances relating to its concerns.

The board of supervisors by a majority vote of its members may, and upon petition of five percent of the electors shall, place upon the ballot the question of electing a commission to frame a charter.

No county charter shall be adopted, amended or repealed until approved by a majority of electors voting on the question.

Sec. 3. No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed by the United States, unless approved in the manner prescribed by law by a majority of electors voting thereon in each county to be affected.

Sec. 4. There shall be elected for four-year terms in each organized county a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be provided by law. The board of supervisors in any county may combine the offices of county clerk and register of deeds in one office or separate the same at pleasure.

Sec. 5. The sheriff, county clerk, county treasurer and register of deeds shall hold their principal offices at the county seat.

Sec. 6. The sheriff may be required by law to renew his security periodically and in default of giving such security, his office shall be vacant. The county shall never be responsible for his acts, except that the board of supervisors may protect him against

claims by prisoners for unintentional injuries received while in his custody. He shall not hold any other office except in civil defense.

Sec. 7. A board of supervisors shall be established in each organized county consisting of one member from each organized township and such representation from cities as provided by law.

Sec. 8. Boards of supervisors shall have legislative, administrative and such other powers and duties as provided by law.

Sec. 9. Boards of supervisors shall have exclusive power to fix the compensation of county officers not otherwise provided by law.

Sec. 10. A county seat once established shall not be removed until the place to which it is proposed to be moved shall be designated by two-thirds of the members of the board of supervisors and a majority of the electors voting thereon shall have approved the proposed location in the manner prescribed by law.

Sec. 11. No county shall incur any indebtedness which shall increase its total debt beyond 10 percent of its assessed valuation.

Sec. 12. A navigable stream shall not be bridged or dammed without permission granted by the board of supervisors of the county as provided by law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and political subdivisions therein.

Sec. 13. Two or more contiguous counties may combine into a single county if approved in each affected county by a majority of the electors voting on the question.

Sec. 14. The board of supervisors of each organized county may organize and consolidate townships under restrictions and limitations provided by law.

Sec. 15. Any county, when authorized by its board of supervisors shall have the authority to enter or to intervene in any action or certificate proceeding involving the services, charges or rates of any privately owned public utility furnishing services or commodities to rate payers within the county.

Sec. 16. The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the state and by the counties and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The legislature may provide the powers and duties of counties in relation to highways, bridges, culverts and airports; may provide for county road commissioners to be appointed or elected, with powers and duties provided by law. The ad valorem property tax imposed for road purposes by any county shall not exceed in any year one-half of one percent of the assessed valuation for the preceding year.

Sec. 17. Each organized township shall be a body corporate with powers and immunities provided by law.

Sec. 18. In each organized township there shall be elected for terms of not less than two nor more than four years as prescribed by law a supervisor, a clerk, a treasurer, and not to exceed four trustees, whose legislative and administrative powers and duties shall be provided by law.

Sec. 19. No organized township shall grant any public utility franchise which is not subject to revocation at the will of the township, unless the proposition shall first have been approved by a majority of the electors of such township voting thereon at a regular or special election.

Sec. 20. The legislature shall provide by law for the dissolution of township government whenever all the territory of an organized township is included within the boundaries of a village or villages notwithstanding that a village may include territory within another organized township and provide by law for the classification of such village or villages as cities.

Sec. 21. The legislature shall provide by general laws for the incorporation of cities and villages. Such laws shall limit their rate of ad valorem property taxation for municipal purposes, and restrict the powers of cities and villages to borrow money and contract debts. Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.

Sec. 22. Under general laws the electors of each city and village shall have the power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village. Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall limit or restrict the general grant of authority conferred by this section.

Sec. 23. Any city or village may acquire, own, establish and maintain, within or without its corporate limits, parks, boulevards, cemeteries, hospitals and all works which involve the public health or safety.

Sec. 24. Subject to this constitution, any city or village may acquire, own or operate, within or without its corporate limits, public service facilities for supplying water, light, heat, power, sewage disposal and transportation to the municipality and the inhabitants thereof.

Any city or village may sell and deliver heat, power or light without its corporate limits in an amount not exceeding 25 percent of that furnished by it within the corporate limits, except as greater amounts may be permitted by law; may sell and deliver water and provide sewage disposal services outside of its corporate limits in such amount as may be determined by the legislative body of the city or village; and may operate transportation lines outside the municipality within such limits as may be prescribed by law.

Sec. 25. No city or village shall acquire any public utility furnishing light, heat or power, or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless the proposition shall first have been approved by three-fifths of the electors voting thereon. No city or village may sell any public utility unless the proposition shall first have been approved by a majority of the electors voting thereon, or a greater number if the charter shall so provide.

Sec. 26. Except as otherwise provided in this constitution, no city or village shall have the power to loan its credit for any private purpose or, except as provided by law, for any public purpose.

Sec. 27. Notwithstanding any other provision of this constitution the legislature may establish in metropolitan areas additional forms of government or authorities with powers, duties and jurisdictions as the legislature shall provide. Wherever possible, such additional forms of government or authorities shall be designed to perform multi-purpose functions rather than a single function.

Sec. 28. The legislature by general law shall authorize two or more counties, townships, cities, villages or districts, or any combination thereof among other things to:

enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government; lend their credit to one another or any combination thereof as provided by law in connection with any authorized publicly owned undertaking.

Any other provision of this constitution notwithstanding, an officer or employee of the state or any such unit of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service.

Sec. 29. No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, township, city or village for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, township, city or village; or to transact local business therein without first obtaining a franchise from the township, city or village. Except as otherwise provided in this constitution the right of all counties, townships, cities and villages to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.

Sec. 30. No franchise or license shall be granted by any township, city or village for a period longer than 30 years.

Sec. 31. The legislature shall not vacate or alter any road, street, alley or public place under the jurisdiction of any county, township, city or village.

Sec. 32. Any county, township, city, village, authority or school district empowered by the legislature or by this constitution to prepare budgets of estimated expenditures and revenues shall adopt such budgets only after a public hearing in a manner prescribed by law.

Sec. 33. Any elected officer of a political subdivision may be removed from office in the manner and for the causes provided by law.

Sec. 34. The provisions of this constitution and law concerning counties, townships, cities and villages shall be liberally construed in their favor. Powers granted to counties and townships by this constitution and by law shall include those fairly implied and not prohibited by this constitution.

ARTICLE VIII

Education

Sec. 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Sec. 2. The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.

Sec. 3. Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies. He shall be the principal executive officer of a state department of education which shall have powers and duties provided by law.

The state board of education shall consist of eight members who shall be nominated by party conventions and elected at large for terms of eight years as prescribed by law. The governor shall fill any vacancy by appointment for the unexpired term. The governor shall be ex-officio a member of the state board of education without the right to vote.

The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section.

Sec. 4. The legislature shall appropriate moneys to maintain the University of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, by whatever names such institutions may hereafter be known, and other institutions of higher education established by law. The legislature shall be given an annual accounting of all income and expenditures by each of these educational institutions. Formal sessions of governing boards of such institutions shall be open to the public.

Sec. 5. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. Each board shall have general supervision of its institution and the control and direction of all expenditures from the institution's funds. Each board shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution, be ex-officio a member of the board without the right to vote and preside at meetings of the board. The board of each institution shall consist of eight members who shall hold office for terms of eight years and who shall be elected as provided by law. The governor shall fill board vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as provided by law.

Sec. 6. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. It shall, as often as necessary, elect a president of the institution under its supervision.

He shall be the principal executive officer of the institution and be ex-officio a member of the board without the right to vote. The board may elect one of its members or may designate the president, to preside at board meetings. Each board of control shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the governor by and with the advice and consent of the senate. Vacancies shall be filled in like manner.

Sec. 7. The legislature shall provide by law for the establishment and financial support of public community and junior colleges which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the state board of education. Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex-officio a member of this board without the right to vote.

Sec. 8. Institutions, programs and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally or otherwise seriously handicapped shall always be fostered and supported.

Sec. 9. The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof. All fines assessed and collected in the several counties, townships and cities for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law.

ARTICLE IX

Finance and Taxation

Sec. 1. The legislature shall impose taxes sufficient with other resources to pay the expenses of state government.

Sec. 2. The power of taxation shall never be surrendered, suspended or contracted away.

Sec. 3. The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 percent; and for a system of equalization of assessments. The legislature may provide for alternative means of taxation of designated real and tangible personal property in lieu of general ad valorem taxation. Every tax other than the general ad valorem property tax shall be uniform upon the class or classes on which it operates.

Sec. 4. Property owned and occupied by non-profit religious or educational organizations and used exclusively for religious or educational purposes, as defined by law, shall be exempt from real and personal property taxes.

Sec. 5. The legislature shall provide for the assessment by the state of the property of those public service businesses assessed by the state at the date this constitution becomes effective, and of other property as designated by the legislature,

and for the imposition and collection of taxes thereon. Property assessed by the state shall be assessed at the same proportion of its true cash value as the legislature shall specify for property subject to general ad valorem taxation. The rate of taxation on such property shall be the average rate levied upon other property in this state under the general ad valorem tax law, or, if the legislature provides, the rate of tax applicable to the property of each business enterprise assessed by the state shall be the average rate of ad valorem taxation levied upon other property in all counties in which any of such property is situated.

Sec. 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount; or to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

Sec. 7. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

Sec. 8. The legislature shall not impose a sales tax on retailers at a rate of more than four percent of their gross taxable sales of tangible personal property.

Sec. 9. All specific taxes, except general sales and use taxes and regulatory fees, imposed directly or indirectly on fuels sold or used to propel motor vehicles upon highways and on registered motor vehicles shall, after the payment of necessary collection expenses, be used exclusively for highway purposes as defined by law.

Sec. 10. One-eighth of all taxes imposed on retailers on taxable sales at retail of tangible personal property shall be used exclusively for assistance to townships, cities and villages, on a population basis as provided by law. In determining population the legislature may exclude any portion of the total number of persons who are wards, patients or convicts in any tax supported institution.

Sec. 11. There shall be established a state school aid fund which shall be used exclusively for aid to school districts, higher education and school employees' retirement systems, as provided by law. One-half of all taxes imposed on retailers on taxable sales at retail of tangible personal property, and other tax revenues provided by law, shall

be dedicated to this fund. Payments from this fund shall be made in full on a scheduled basis, as provided by law.

Sec. 12. No evidence of state indebtedness shall be issued except for debts authorized pursuant to this constitution.

Sec. 13. Public bodies corporate shall have power to borrow money and to issue their securities evidencing debt, subject to this constitution and law.

Sec. 14. To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 percent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

Sec. 15. The state may borrow money for specific purposes in amounts as may be provided by acts of the legislature adopted by a vote of two-thirds of the members elected to and serving in each house, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

Sec. 16. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

If the minimum amount which would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as finally equalized, or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall lend the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall lend to it an amount sufficient to enable the school district to make the payment.

The term "qualified bonds" means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued prior to May 4, 1955, or issued thereafter and qualified as provided by law pursuant to Section 27 or Section 28 of Article X of the Constitution of 1908 or pursuant to this section.

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used toward the repayment of state loans. In any year when such levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Subject to the foregoing provisions, the legislature shall have the power to prescribe and to limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

The power to tax for the payment of principal and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made to school districts, shall be without limitation as to rate or amount.

All rights acquired under Sections 27 and 28 of Article X of the Constitution of 1908, by holders of bonds heretofore issued, and all obligations assumed by the state or any school district under these sections, shall remain unimpaired.

Sec. 17. No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

Sec. 18. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

This section shall not be construed to prohibit the investment of public funds until needed for current requirements or the investment of funds accumulated to provide retirement or pension benefits for public officials and employees, as provided by law.

Sec. 19. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation, except that funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law; and endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

Sec. 20. No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money shall be deposited in any bank in excess of 50 percent of the capital and surplus of such bank. Any bank receiving deposits of state money shall show the amount of state money so deposited as a separate item in all published statements.

Sec. 21. The legislature shall provide by law for the annual accounting for all public moneys, state and local, and may provide by law for interim accounting.

The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.

Sec. 22. Procedures for the examination and adjustment of claims against the state shall be prescribed by law.

Sec. 23. All financial records, accountings, audit reports and other reports of public moneys shall be public records and open to inspection. A statement of all revenues and expenditures of public moneys shall be published and distributed annually, as provided by law.

Sec. 24. The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby.

Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be used for financing unfunded accrued liabilities.

ARTICLE X
Property

Sec. 1. The disabilities of coverture as to property are abolished. The real and personal estate of every woman acquired before marriage and all real and personal

property to which she may afterwards become entitled shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be dealt with and disposed of by her as if she were unmarried. Dower may be relinquished or conveyed as provided by law.

Sec. 2. Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law. Compensation shall be determined in proceedings in a court of record.

Sec. 3. A homestead in the amount of not less than $3,500 and personal property of every resident of this state in the amount of not less than $750, as defined by law, shall be exempt from forced sale on execution or other process of any court. Such exemptions shall not extend to any lien thereon excluded from exemption by law.

Sec. 4. Procedures relating to escheats and to the custody and disposition of escheated property shall be prescribed by law.

Sec. 5. The legislature shall have general supervisory jurisdiction over all state owned lands useful for forest preserves, game areas and recreational purposes; shall require annual reports as to such lands from all departments having supervision or control thereof; and shall by general law provide for the sale, lease or other disposition of such lands.

The legislature by an act adopted by two-thirds of the members elected to and serving in each house may designate any part of such lands as a state land reserve. No lands in the state land reserve may be removed from the reserve, sold, leased or otherwise disposed of except by an act of the legislature.

Sec. 6. Aliens who are residents of this state shall enjoy the same rights and privileges in property as citizens of this state.

ARTICLE XI

Public Officers and Employment

Sec. 1. All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of ..... according to the best of my ability. No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.

Sec. 2. The terms of office of elective state officers, members of the legislature and justices and judges of courts of record shall begin at twelve o'clock noon on the first day of January next succeeding their election, except as otherwise provided in this constitution. The terms of office of county officers shall begin on the first day of January next succeeding their election, except as otherwise provided by law.

Sec. 3. Neither the legislature nor any political subdivision of this state shall grant or authorize extra compensation to any public officer, agent or contractor after the service has been rendered or the contract entered into.

Sec. 4. No person having custody or control of public moneys shall be a member of the legislature, or be eligible to any office of trust or profit under this state, until he shall have made an accounting, as provided by law, of all sums for which he may be liable.

Sec. 5. The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the principal executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legislature, employees of the state institutions of higher education, all persons in the armed forces of the state, eight exempt positions in the office of the governor, and within each principal department, when requested by the department head, two other exempt positions, one of which shall be policy-making. The civil service commission may exempt three additional positions of a policy-making nature within each principal department.

The civil service commission shall be non-salaried and shall consist of four persons, not more than two of whom shall be members of the same political party, appointed by the governor for terms of eight years, no two of which shall expire in the same year.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

No person shall be appointed to or promoted in the classified service who has not been certified by the commission as qualified for such appointment or promotion. No appointments, promotions, demotions or removals in the classified service shall be made for religious, racial or partisan considerations.

Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year. Within 60 calendar days following such transmission, the legislature may, by a two-thirds vote of the members elected to and serving in each house, reject or reduce increases in rates of compensation authorized by the commission. Any reduction ordered by the legislature shall apply uniformly to all classes of employees affected by the increases and shall not adjust pay differentials already established by the civil service commission. The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission.

The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition or creation of a position shall have a right of appeal to the commission through established grievance procedures.

The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within six months after the conclusion of each fiscal year the commission shall return to the state treasury all moneys unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

No payment for personal services shall be made or authorized until the provisions of this constitution pertaining to civil service have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

Sec. 6. By ordinance or resolution of its governing body which shall not take effect until approved by a majority of the electors voting thereon, unless otherwise provided by charter, each county, township, city, village, school district and other governmental unit or authority may establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services to any such unit on a reimbursable basis.

Sec. 7. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected thereto and serving therein shall be necessary to direct an impeachment.

When an impeachment is directed, the house of representatives shall elect three of its members to prosecute the impeachment.

Every impeachment shall be tried by the senate immediately after the final adjournment of the legislature. The senators shall take an oath or affirmation truly and impartially to try and determine the impeachment according to the evidence. When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside.

No person shall be convicted without the concurrence of two-thirds of the senators elected and serving. Judgment in case of conviction shall not extend further than removal from office, but the person convicted shall be liable to punishment according to law.

No judicial officer shall exercise any of the functions of his office after an impeachment is directed until he is acquitted.

ARTICLE XII

Amendment and Revision

Sec. 1. Amendments to this constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by two-thirds of the members elected to and serving in each house on a vote with the names and vote of those voting entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct. If a majority of electors voting on a proposed amendment approve the same, it shall become part of the constitution and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved.

Sec. 2. Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. The person authorized by law to receive such petition shall upon its receipt determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next general election. Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.

If the proposed amendment is approved by a majority of the electors voting on the question, it shall become part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. If two or more amendments approved by the electors at the same election conflict, that amendment receiving the highest affirmative vote shall prevail.

Sec. 3. At the general election to be held in the year 1978, and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than six months after the proposal was certified as approved, the electors of each representative district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate at a partisan election. The delegates so elected shall convene at the seat of government on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. To fill a vacancy in the office of any delegate, the governor shall appoint a qualified resident of the same district who shall be a member of the same party as the delegate vacating the office. The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of

the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, with the names and vote of those voting entered in the journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

Schedule and Temporary Provisions

To insure the orderly transition from the constitution of 1908 to this constitution the following schedule and temporary provisions are set forth to be effective for such period as are thereby required.

Sec. 1. The attorney general shall recommend to the legislature as soon as practicable such changes as may be necessary to adapt existing laws to this constitution.

Sec. 2. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights existing on the effective date of this constitution shall continue unaffected except as modified in accordance with the provisions of this constitution.

Sec. 3. Except as otherwise provided in this constitution, all officers filling any office by election or appointment shall continue to exercise their powers and duties until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or the laws enacted pursuant thereto.

No provision of this constitution, or of law or of executive order authorized by this constitution shall shorten the term of any person elected to state office at a statewide election on or prior to the date on which this constitution is submitted to a vote. In the event the duties of any such officers shall not have been abolished or incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated or abolished.

Sec. 4. All officers elected at the same election that this constitution is submitted to the people for adoption shall take office and complete the term to which they were elected under the 1908 constitution and existing laws and continue to serve until their successors are elected and qualified pursuant to this constitution or law.

Sec. 5. Notwithstanding any other provision in this constitution, the governor, the lieutenant governor, the secretary of state, the attorney general and state senators shall be elected at the general election in 1964 to serve for two-year terms beginning on the first day of January next succeeding their election. The first election of such officers for four-year terms under this constitution shall be held at the general election in 1966.

Sec. 6. Notwithstanding the provisions of this constitution that the supreme court shall consist of seven justices it shall consist of eight justices until the time that a vacancy occurs as a result of death, retirement or resignation of a justice. The first such vacancy shall not be filled.

Sec. 7. Any judge of probate serving on the effective date of this constitution may serve the remainder of the term and be eligible to succeed himself for election

regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

Sec. 8. The provisions of Article VI providing that terms of judicial offices shall not all expire at the same time, shall be implemented by law providing that at the next election for such offices judges shall be elected for terms of varying length, none of which shall be shorter than the regular term provided for the office.

Sec. 9. The members of the state board of education provided for in Section 3 of Article VIII of this constitution shall first be elected at the first general election after the effective date of this constitution for the following terms: two shall be elected for two years, two for four years, two for six years, and two for eight years as prescribed by law.

The state board of education provided for in the constitution of 1908 is abolished at twelve o'clock noon January 1 of the year following the first general election under this constitution and the terms of members thereof shall then expire.

Sec. 10. The provisions of this constitution providing for members of boards of control of institutions of higher education and the state board of public community and junior colleges shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended, and may further provide that the initial terms of office of members may be less than eight years.

Sec. 11. The provisions of this constitution increasing the number of members of the Board of Trustees of Michigan State University and of the Board of Governors of Wayne State University to eight, and of their term of office to eight years, shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended one year, and may further provide that the initial terms of office of the additional members may be less than eight years.

Sec. 12. The initial allocation of departments by law pursuant to Section 2 of Article V of this constitution, shall be completed within two years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make the initial allocation.

Sec. 13. Contractual obligations of the state incurred pursuant to the constitution of 1908 shall continue to be obligations of the state.

For the retirement of notes and bonds issued under Section 26 of Article X of the 1908 constitution, there is hereby appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each year.

Sec. 14. The legislature by a vote of two-thirds of the members elected to and serving in each house may provide that the state may borrow money and may pledge its full faith and credit for refunding any bonds issued by the Mackinac Bridge Authority and at the time of refunding the Mackinac Bridge Authority shall be abolished and the operation of the bridge shall be assumed by the state highway department. The legislature may implement this section by law.

Sec. 15. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the first Monday in April, 1963. It shall be the duty of the secretary of state forthwith to give notice of such submission to all

other officers required to give or publish any notice in regard to a general election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.

Sec. 16. Every registered elector may vote on the adoption of the constitution. The board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office, the words: Shall the revised constitution be adopted? ( ) Yes. ( ) No. All votes cast at the election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. If the revised constitution so submitted receives more votes in its favor than were cast against it, it shall be the supreme law of the state on and after the first day of January of the year following its adoption.

Adopted by the Constitutional Convention of nineteen hundred sixty-one at Constitution Hall in Lansing on the first day of August, nineteen hundred sixty-two.

Stephen S. Nisbet

Stephen S. Nisbet, *President*

Fred I. Chase

Fred I. Chase, *Secretary*

[ADDRESS TO THE PEOPLE]

What the Proposed New State Constitution Means to You

- **A report to the people of Michigan by their elected delegates to the Constitutional Convention of 1961-62.**

Lansing, Michigan

August 1, 1962

This is a new section providing for the appointment of the auditor general by the legislature. Under the terms of the present constitution, the auditor general is elected by the people.

In changing the method of selection of the auditor general, the proposed constitution makes him primarily responsible to the legislative rather than to the executive branch of state government. His auditing functions, powers and duties are specified in the provisions of the section.

The auditor general must be a certified public accountant licensed to practice in Michigan and his appointment is to be for a term of eight years. He would be ineligible for appointment or election to any other paid public office in the state while serving as auditor general and for two years after the termination of his service. He would be subject to removal at any time by a two-thirds vote of the members elected to and serving in the legislature.

Nothing in the section is to be construed in any way to infringe upon the responsibility and constitutional authority of the governing boards of the state's institutions of higher education. They are to be solely responsible for the control and direction of all expenditures from the institutions' funds. Appropriation of moneys for higher education is a legislative responsibility and an accounting is required to be made to the legislature.

The auditor general, his deputy and one other member of his staff would be exempt from classified civil service. All others on his staff would have civil service status.

Article V

EXECUTIVE BRANCH

Executive power; where vested.

Sec. 1. The * executive power is vested in the governor.

No change from Sec. 2, Article VI, of the present constitution except for elimination of the word "chief" before "executive power". The word has been interpreted as a possible limitation on the executive power. The new phrasing is patterned after the language of the United States Constitution and several recently-revised state constitutions.

Principal departments.

Sec. 2. All executive and administrative offices, agencies and instrumentalities of the executive branch of state government and their respective functions, powers and duties, except for the office of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes.

Subsequent to the initial allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders and submitted to the legislature. Thereafter the legislature shall have 60 calendar days of a regular session, or a full regular session if of shorter duration, to disapprove each executive order. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, each order shall become effective at a date thereafter to be designated by the governor.

This is a new section which places a limit of 20 on the number of principal departments under the direct supervision of the governor. Excepted from the limitation are the offices of the governor and lieutenant governor and the governing bodies of institutions of higher education.

The section is intended to bring about a more effective grouping of departments according to major purposes. It would retain in the hands of the legislature and the governor considerable discretion as to internal organization within principal departments.

The initial allocation of departments (See Schedule and Temporary Provisions) is left to the legislature, but if it has not been completed within two years the governor is given authority by executive order to make the initial allocation within one year thereafter. Subsequently, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient adminis-

tration. These changes become effective unless they are disapproved within 60 days by a majority of the members in both houses of the legislature.

Same; appointment.

Sec. 3. The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer and an attorney general. When a single executive is the head of a principal department, unless elected or appointed as otherwise provided in this constitution, he shall be appointed by the governor by and with the advice and consent of the senate and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, unless elected or appointed as otherwise provided in this constitution, the members thereof shall be appointed by the governor by and with the advice and consent of the senate. The term of office and procedure for removal of such members shall be as prescribed in this constitution or by law.

Terms of office of any board or commission created or enlarged after the effective date of this constitution shall not exceed four years except as otherwise authorized in this constitution. The terms of office of existing boards and commissions which are longer than four years shall not be further extended except as provided in this constitution.

This is a new section giving the governor, with advice and consent of the senate, the power of appointment of heads of principal departments and of board members, except for the three constitutionally elected officials – the lieutenant governor, attorney general and secretary of state. Exceptions are also noted in the case of elected boards and boards and commissions which have authority to name their executive heads. Single executives named by the governor who head principal departments will serve at the pleasure of the governor.

Terms of office of any board or commission created or enlarged after adoption of this document are not to exceed four years, except as otherwise authorized in this constitution, and terms of existing boards which are greater than four years are not to be further extended except as provided in this constitution.

Temporary agencies.

Sec. 4. Temporary commissions or agencies for special purposes with a life of no more than two years may be established by law and need not be allocated within a principal department.

This is a new section providing that temporary commissions or agencies may be set up for special purposes, but for periods of not more than two years.

Licensing boards.

Sec. 5. A majority of the members of an appointed examining or licensing board of a profession shall be members of that profession.

This is a new section making it clear that appointed licensing boards must be composed of a majority of members of the profession involved.

Advice and consent; definition.

Sec. 6. Appointment by and with the advice and consent of the senate when used in this constitution or laws in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 session days after the date of such appointment. Any appointment not disapproved within such period shall stand confirmed.

This is a new section providing a constitutional definition of appointment by and with advice and consent of the senate as it applies to this constitution and laws now in effect or hereafter enacted. Such an appointment is subject to disapproval by a majority vote of the members elected to and serving in the senate, provided the senate acts to disapprove within 60 session days after the appointment is submitted to it. If fewer than 60 session days remain for consideration after submission of an appointment, the time available for possible disapproval will be extended into the next regular or special session for the balance of the specified period.

This procedure provides ample opportunity for the senate to render a negative judgment on appointees. At the same time, it permits appointments to become effective unless the senate is willing to go on record as rejecting the appointees. It prevents withholding of confirmation simply by failure to act on appointments.

Vacancies in state offices.

Sec. 7. Vacancies in any office, appointment to which requires advice and consent of the senate, shall be filled by the governor by and with the advice and consent of the senate. A person whose appointment has been disapproved by the senate shall not be eligible for an interim appointment to the same office.

This is a revision of Sec. 10, Article VI, of the present constitution clarifying the power of the governor to make appointments when the senate is not in session. It specifies that such appointments will continue in effect unless disapproved by the senate as provided in Sec. 6 of this Article.

In the event of senate disapproval, the same person is not eligible for another interim appointment to the same office.

Principal departments; supervision of governor.

Sec. 8. *Each principal department shall be under the supervision of the governor unless otherwise provided by this constitution.* The governor shall take care that the laws be faithfully executed. *He* shall transact all necessary business with the officers of government and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may initiate court proceedings in the name of the state to enforce compliance with any constitutional or legislative mandate, or