

# Michigan Constitutional Convention of 1961

## Committee Proposals 71i-71A

### Const 1963, Art 5, § 29

#### Relevant Material From the Constitutional Convention Record

Cross-Reference and Indices .....	pp. 3436, 3448-3449, 3466
First Reading .....	pp. 756, 1766-1771, 1921-1951, 1954, 1976-1986, 1988-2006, 2008-2013, 2075-2076, 2179, 2182-2190, 2192-2200, 2206-2207, 2210-2212, 2620
Second Reading .....	pp. 2477, 2737, 2743-2744, 2746, 2754-2764
Draft Constitution (Art 5, § 28) .....	pp. 3047-3075 (p. 3059)
Third Reading, Article-by-Article .....	pp. 3117-3118, 3121-3125
Draft Constitution (Art 5, § 29) .....	pp. 3215-3237 (p. 3225)
Third Reading, Full Constitution .....	pp. 3238, 3300-3301
Adopted Constitution (Art 5, § 29) .....	pp. 3319-3353 (p. 3334)
Address to the People .....	pp. 3383-3384

#### 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 - 1962**  
**OFFICIAL RECORD**



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

Committee Proposal No.	Page	Committee Proposal No.	Page
65: Cont'd.		70. A proposal to revise provisions of section 36 of article V regarding the veto power of the governor.	
Feb. 1, reported by miscellaneous provisions and schedule; referred to committee of the whole	738	For text as offered and reasons	1717
Apr. 16, read first time; considered, passed by committee of the whole	2458-2472	For minority report and reasons	1718
Apr. 16, reported by committee of the whole without amendment; referred to style and drafting	2472	As referred to style and drafting	1717
Apr. 26, reported by style and drafting (Report 113); placed on order of second reading	2852	As reported by style and drafting	2769
May 1, read second time; passed; rereferred to style and drafting	3004-3006	As rereferred to style and drafting	2769
66. A proposal relative to amendment and revision. Amends section 4 of article XVII.		Feb. 1, reported by legislative powers and executive branch; referred to committee of the whole	738
For text as offered and reasons	2472	Mar. 19, read first time; considered, passed by committee of the whole	1717-1720
As referred to style and drafting	2472	Mar. 19, reported by committee of the whole without amendment; referred to style and drafting	1730
As reported by style and drafting	3006	Apr. 19, reported by style and drafting (Report 73); placed on order of second reading	2619
As rereferred to style and drafting	3013	Apr. 24, read second time; passed; rereferred to style and drafting	2769-2770
Feb. 1, reported by miscellaneous provisions and schedule; referred to committee of the whole	738	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.	
Apr. 16, read first time; considered, passed by committee of the whole	2472-2490	For text as offered and reasons	1766
Apr. 16, reported by committee of the whole without amendment; referred to style and drafting	2503	For minority reports and reasons	1769
Apr. 20, reported by style and drafting (Report 114); placed on order of second reading	2852	As referred to style and drafting	2211
May 1, read second time; amended, passed; rereferred to style and drafting	3006-3013	As reported by style and drafting	2743
67. A proposal to amend article XIII, sections 1, 2, 3, 4 and 5, pertaining to eminent domain, of the present constitution.		As rereferred to style and drafting	2743
For text as offered and reasons	2580	Feb. 2, reported by executive branch; referred to committee of the whole	756
As referred to style and drafting	2848	Mar. 20, read first time; section a considered by committee of the whole	1766-1784
As reported by style and drafting	3035	Mar. 21, section a considered, amended by committee of the whole	1787-1814
As rereferred to style and drafting	3035	Mar. 22, sections a, b considered; section a amended, passed by committee of the whole	1816-1844
Feb. 2, reported by miscellaneous provisions and schedule; referred to committee of the whole	756	Mar. 23, section b considered, amended by committee of the whole	1845-1865
Apr. 18, read first time; considered, amended by committee of the whole	2580-2597, 2598-2602	Mar. 26, section b considered, amended by committee of the whole	1867-1874, 1875-1889
Apr. 25, considered, amended, passed by committee of the whole	2829-2848	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
Apr. 25, reported by committee of the whole with 1 amendment; referred, as amended, to style and drafting	2848	Mar. 28, section i offered, amended by committee of the whole	1921-1950
Apr. 26, reported by style and drafting (Report 121); placed on order of second reading	2870	Mar. 29, consideration postponed by committee of the whole	1954
Apr. 30, consideration postponed	2997	Mar. 29, section i considered, amended, adopted, amended, passed; committee proposal as amended considered by committee of the whole	1976-1986, 1988-2006
May 1, read second time; passed; rereferred to style and drafting	3035-3042	Mar. 30, considered, passed by committee of the whole	2008
68. A proposal pertaining to the schedule. Amends sections 10, 6 and 11 of the schedule.		Mar. 30, reported by committee of the whole with 11 amendments; consideration of report postponed to Apr. 3	2009-2013
For text as offered and reasons	2490	Apr. 3, report of committee of the whole postponed	2075-2076
As referred to style and drafting	2490	Apr. 5, report of committee of the whole considered; amendments 1 through 10 concurred in; amendment 11 (section i) considered	2179-2190
As reported by style and drafting	3031	Apr. 6, amendment 11 (section i) considered, substituted, concurred in; amended; referred to style and drafting	2192-2212
As rereferred to style and drafting	3035	Apr. 19, reported by style and drafting (Report 72); placed on order of second reading	2620
Feb. 1, reported by miscellaneous provisions and schedule; referred to committee of the whole	738	Apr. 24, consideration postponed	2737
Apr. 16, read first time; considered, passed by committee of the whole	2490-2492	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
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
71A. A proposal to provide for a civil rights commission. [For creation of Committee Proposal 71A, see page 2746.]	
For text as offered (as section i of Committee Proposal 71) .....	1921
As referred to style and drafting (as section i of Committee Proposal 71) .....	2212
As reported by style and drafting (as section i of Committee Proposal 71) .....	2744
As rereferred to style and drafting (as Committee Proposal 71A) .....	2755
Mar. 28, offered by executive branch (as section i of Committee Proposal 71), amended by committee of the whole .....	1921-1951
Mar. 29, consideration postponed by committee of the whole .....	1954
Mar. 29, considered, amended, adopted, amended, passed; committee proposal as amended considered by committee of the whole .....	1976-1986, 1988-2006
Mar. 30, committee proposal as amended considered, passed by committee of the whole .....	2008
Mar. 30, reported by committee of the whole as an amendment; consideration postponed to Apr. 3 2009-2013	
Apr. 3, report of committee of the whole postponed .....	2075-2076
Apr. 5, considered (as amendment 11 of report of committee of the whole) .....	2182-2190
Apr. 6, considered (as amendment 11 of report of committee of the whole); substituted; 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; passed; rereferred to style and drafting .....	2755-2764
72. A proposal to provide for compensation of acting governor. Retains section 18 of article VI.	
For text as offered and reasons .....	1721
As referred to style and drafting .....	1987
As reported by style and drafting .....	2766
As rereferred to style and drafting .....	2766
Feb. 1, reported by executive branch; referred to committee of the whole .....	738
Mar. 19, read first time; considered, postponed by committee of the whole .....	1721-1724
Mar. 29, considered, amended, passed by committee of the whole .....	1969-1973
Mar. 29, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting .....	1987
Apr. 19, reported by style and drafting (Report 75); placed on order of second reading .....	2620
Apr. 24, read second time; passed; rereferred to style and drafting .....	2766
73. Lieutenant governor as president of the senate. Article VI, section 19.	
Feb. 2, reported and withdrawn by executive branch .....	756
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. Revises article VI, section 20.	
For text as offered and reasons .....	1731
As referred to style and drafting .....	1747
As reported by style and drafting .....	2770
As rereferred to style and drafting .....	2770
Feb. 1, reported by executive branch; referred to committee of the whole .....	738
Mar. 19, read first time; considered, amended, passed by committee of the whole .....	1731-1738
Mar. 19, reported by committee of the whole with 3 amendments; amendments concurred in; referred to style and drafting .....	1747
Apr. 19, reported by style and drafting (Report 76); placed on order of second reading .....	2620
Apr. 24, read second time; passed; rereferred to style and drafting .....	2770

Committee Proposal No.	Page
75. A proposal to provide for compensation of state officers. Amends article VI, section 21.	
For text as offered and reasons .....	1720
As referred to style and drafting .....	1720
As reported by style and drafting .....	2766
As rereferred to style and drafting .....	2766
Feb. 1, reported by executive branch; referred to committee of the whole .....	738
Mar. 19, read first time; considered, passed by committee of the whole .....	1720-1721
Mar. 19, reported by committee of the whole without amendment; referred to style and drafting .....	1730
Apr. 19, reported by style and drafting (Report 77); placed on order of second reading .....	2620
Apr. 24, read second time; passed; rereferred to style and drafting .....	2766-2767
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. Amends article VI.	
For text as offered and reasons .....	1743
As referred to style and drafting .....	1784
As reported by style and drafting .....	2796
As rereferred to style and drafting .....	2798
Feb. 1, reported by executive branch; referred to committee of the whole .....	738
Mar. 19, read first time; considered by committee of the whole .....	1743-1747
Mar. 20, considered, amended, passed by committee of the whole .....	1749-1760, 1762-1766
Mar. 20, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting .....	1784
Apr. 19, reported by style and drafting (Report 78); placed on order of second reading .....	2620
Apr. 25, read second time; amended, passed; rereferred to style and drafting .....	2796-2798
77. A proposal to provide a suitable residence for the governor and to authorize an allowance for maintenance. Amends article VI.	
For text as offered and reasons .....	1738
As referred to style and drafting .....	1747
As reported by style and drafting .....	2778
As rereferred to style and drafting .....	2778
Feb. 2, reported by executive branch; referred to committee of the whole .....	756
Mar. 19, read first time; considered, amended, passed by committee of the whole .....	1738-1743
Mar. 19, reported by committee of the whole with 2 amendments; amendments concurred in; referred to style and drafting .....	1747
Apr. 19, reported by style and drafting (Report 79); placed on order of second reading .....	2620
Apr. 24, read second time; passed; rereferred to style and drafting .....	2778
78. A proposal to provide for the office of legislative auditor general. Adds a new section to article V.	
For text as offered and reasons .....	1672
For minority reports and reasons .....	1673
As referred to style and drafting .....	1715
As reported by style and drafting .....	2770
As rereferred to style and drafting .....	2778
Feb. 1, reported by legislative powers and executive branch; referred to committee of the whole .....	738
Mar. 15, read first time; substitute offered, adopted, amended by committee of the whole .....	1672-1676 1680-1696
Mar. 16, substitute considered, amended, passed by committee of the whole .....	1705-1715
Mar. 16, reported by committee of the whole with a substitute; substitute concurred in; referred to style and drafting .....	1715
Apr. 19, reported by style and drafting (Report 80); placed on order of second reading .....	2620
Apr. 24, read second time; amended, passed; rereferred to style and drafting .....	2770-2778

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Article V, Section 28: Cont'd.		Article VI: Cont'd.	
May 8, read third time; passed	3117-3125	Section 5. Court rules; distinctions between law and equity; master in chancery. (Committee Proposal 91d)	
May 9, referred to committee on style and drafting	3210	May 7, reported; placed on order of third reading	3045
May 11, reported (as section 28); placed on order of third reading; considered read third time; passed	3213-3275	May 8, read third time; passed	3125-3140
Aug. 1, considered; adopted	3291-3301	May 9, referred to committee on style and drafting	3210
For text as adopted	3334	May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
For text, and comments in address to the people	3383	Aug. 1, considered; adopted	3291-3301
Section 29 (originally section 28). Civil rights commission; members, term, duties, appropriation. Rules and regulations; hearings, orders. Appeals. (Committee Proposal 71i-71A)		For text as adopted	3335
May 7, reported (as section 28); placed on order of third reading	3045	For text, and comments in address to the people	3385
May 8, read third time; amended; passed	3117-3125	Section 6. Decisions and dissents; writing, contents. (Committee Proposal 91e)	
May 9, referred to committee on style and drafting	3210	May 7, reported; placed on order of third reading	3045
May 11, reported (as section 29); placed on order of third reading; considered read third time; passed	3213-3275	May 8, read third time; passed	3125-3140
Aug. 1, considered; adopted	3291-3301	May 9, referred to committee on style and drafting	3210
For text as adopted	3334	May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
For text, and comments in address to the people	3383	Aug. 1, considered; adopted	3291-3301
ARTICLE VI. Judicial branch. (Committee Proposals 90, 91a, b, c, d, e, f, 92a, b, c, 93a, b, c, d, 94a, b, 95 and 96a, a <sup>1</sup> , b, c, d, e, g, h, i, l, n, o)		For text as adopted	3335
May 7, reported; placed on order of third reading	3045	For text, and comments in address to the people	3385
May 8, read third time; sections 8 and 26 amended; passed	3125-3140	Section 7. Staff; budget; salaries of justices; fees. (Committee Proposal 91f)	
May 9, referred to committee on style and drafting	3210	May 7, reported; placed on order of third reading	3045
May 11, reported; placed on order of third reading; considered read third time; section 28 amended; passed	3213-3275	May 8, read third time; passed	3125-3140
Aug. 1, considered; adopted	3291-3301	May 9, referred to committee on style and drafting	3210
For text as adopted	3334-3338	May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
For text, and comments in address to the people	3384-3389	Aug. 1, considered; adopted	3291-3301
Section 1. Judicial power in court of justice; divisions. (Committee Proposal 90)		For text as adopted	3335
May 7, reported; placed on order of third reading	3045	For text, and comments in address to the people	3385
May 8, read third time; passed	3125-3140	Section 8. Court of appeals; election of judges, divisions. (Committee Proposal 92a)	
May 9, referred to committee on style and drafting	3210	May 7, reported; placed on order of third reading	3045
May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275	May 8, read third time; amended; passed	3125-3140
Aug. 1, considered; adopted	3291-3301	May 9, referred to committee on style and drafting	3210
For text as adopted	3334	May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
For text, and comments in address to the people	3384	Aug. 1, considered; adopted	3291-3301
Section 2. Justices of the supreme court; number, term, nomination, election. (Committee Proposal 91a)		For text as adopted	3335
May 7, reported; placed on order of third reading	3045	For text, and comments in address to the people	3386
May 8, read third time; passed	3125-3140	Section 9. Judges of court of appeals, terms. (Committee Proposal 92b)	
May 9, referred to committee on style and drafting	3210	May 7, reported; placed on order of third reading	3045
May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275	May 8, read third time; passed	3125-3140
Aug. 1, considered; adopted	3291-3301	May 9, referred to committee on style and drafting	3210
For text as adopted	3334	May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
For text, and comments in address to the people	3384	Aug. 1, considered; adopted	3291-3301
Section 3. Chief justice; court administrator; other assistants. (Committee Proposal 91b)		For text as adopted	3335
May 7, reported; placed on order of third reading	3045	For text, and comments in address to the people	3386
May 8, read third time; passed	3125-3140	Section 10. Jurisdiction, practice and procedure of court of appeals. (Committee Proposal 92c)	
May 9, referred to committee on style and drafting	3210	May 7, reported; placed on order of third reading	3045
May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275	May 8, read third time; passed	3125-3140
Aug. 1, considered; adopted	3291-3301	May 9, referred to committee on style and drafting	3210
For text as adopted	3335	May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
For text, and comments in address to the people	3385	Aug. 1, considered; adopted	3291-3301
Section 4. General superintending control over courts; writs; appellate jurisdiction. (Committee Proposal 91c)		For text as adopted	3335
May 7, reported; placed on order of third reading	3045	For text, and comments in address to the people	3386
May 8, read third time; passed	3125-3140	Section 11. Circuit courts; judicial circuits, sessions, number of judges. (Committee Proposal 93a)	
May 9, referred to committee on style and drafting	3210	May 7, reported; placed on order of third reading	3045
May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275	May 8, read third time; passed	3125-3140
Aug. 1, considered; adopted	3291-3301	May 9, referred to committee on style and drafting	3210
For text as adopted	3335	May 11, reported; placed on order of third reading; considered read third time; passed	3213-3275
For text, and comments in address to the people	3385	Aug. 1, considered; adopted	3291-3301
		For text as adopted	3335
		For text, and comments in address to the people	3386
		Section 12. Circuit judges; nomination, election, term. (Committee Proposal 93b)	
		May 7, reported; placed on order of third reading	3045
		May 8, read third time; passed	3125-3140
		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

Dehnke	Krolkowski	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,

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

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

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

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.

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

vention, it was approximately—not quite—3 weeks ago that the gentleman from Owosso made note of an anniversary regarding a certain judicial article that we were then debating. I am happy to report that the executive article seems now to have become of age, also, and that when we resolve ourselves into committee of the whole this morning we shall be commencing the third week of debate on the executive article. We on the judicial article and particularly the attorneys are very happy to see that the nonlawyers are utilizing their fair share of the words regarding the executive article and that most of us, at least, on our committee have tried faithfully to remain off the floor.

I checked with Mr. Van Dusen, who chaired the committee of the whole, and he and I are very anxious to preserve our record. I suppose there is some sort of a thrill in having the most number of hours. So with that I would hope that we could finish the executive article within the next day. We do not want to celebrate any more anniversaries as far as I can see. Thank you, Mr. President.

MR. BEAMAN: Mr. President.

PRESIDENT NISBET: Mr. Beaman, would you say that was a demand rather than a request?

MR. BEAMAN: I might say that today we are 350,000 words in the red and that is about the number of words used in the late best seller, *Gone With The Wind*. (laughter)

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. Chairman, I only want to thank Mr. Danhof for calling this to everyone's attention. I know that the delegates will want to present the chairman of the committee on the executive branch with an anniversary present and nothing could be nicer than to finish up today if possible.

PRESIDENT NISBET: Reports of standing committees.

SECRETARY CHASE: No committee reports.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: Motions and resolutions. Mr. Bentley.

MR. BENTLEY: Mr. President and fellow delegates, the convention will recall that a relatively short time ago we adopted unanimously a resolution requesting all organized religious bodies throughout the state to offer prayers for the success of the convention and of ourselves. It is my understanding that this past Sunday at St. Cyprian's Church in Detroit such prayers were offered. I understand a copy of this particular prayer has been circulated throughout the convention by our esteemed fellow delegate from Detroit, Father Dade. At this point, Mr. Chairman, I move that the letter dated March 26 from Father Dade to the delegates assembled including the text of this prayer, be made a permanent part of the convention record.

PRESIDENT NISBET: Thank you, Mr. Bentley. Without objection, it will be made a part of the record. Hearing none, it is made a part of the record.

*Following is the letter:*

March 26, 1962

Dear fellow delegate:

On Sunday, March 25, 1962, at the early celebration of holy communion and at the 11:00 o'clock service, prayers were offered at the altar of St. Cyprian's Church, Detroit, Michigan, for you as a delegate and the convention.

We face days ahead of serious and tremendous decisions affecting the lives of all the peoples of this great state of ours. It is our feeling that whatever peoples' concerns are at stake and the redemptive process—whether by law or otherwise—is at work that their God has a hand. To this end, may we be so bold as to ask that you use the following prayer in your personal prayer life. We have shared with you many, many prayers offered in the convention on our behalf. Let us in humility in our own private chambers have a conversation with God. This prayer was used at the early service in St. Cyprian's Church.

O God, by whom the meek are guided in judgment, and light riseth up in darkness for the godly, grant us, in all our doubts and uncertainties, the grace to ask what Thou wouldest have us to do, that the spirit of wisdom may save us from all false choices, and that in Thy light we may see light, and in Thy straight path may not stumble; through Jesus Christ our Lord. Amen. Might we further say that many of you have stated that you have found this prayer most helpful. It has some pertinency at this time also.

Almighty God, if ever we needed Thy guidance and Thy wisdom, it is now as we begin this first meeting of the Constitutional Convention of the state of Michigan in the year of our Lord 1961.

We pray that Thy good spirit may guide and sustain us as we carry the grave responsibilities; accept the challenges ever before us, meet the opportunities afforded us to do a mighty work as delegate representatives of all the people of this great state.

Grant that in all our deliberations and discussions we may do that which is well pleasing in Thy sight. May we be big when we are tempted to be little and petty, dedicated and selfless when we want to be undedicated and selfish, for we shall remember that Thou art concerned in all that we do here, so that our conscience before God and man will be clean. For what we say here will not long be remembered, but what we do in this place we pray will meet the needs and stand the test of the years to come.

Bless each one of us. Bless the homes from which we come, bless the land in which we dwell and bless those to whom leadership shall be entrusted by this convention. Deal graciously with them and hold them and us in strict accountability to Thy judgment and Thy authority. This is our prayer, Almighty God. Amen.

Sincerely,  
Canon Dade.

PRESIDENT NISBET (continuing):

**General orders.** 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. 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. The Chair reiterates what has been said here—the Chair hopes we do not break any records on the executive branch. The secretary will read.

SECRETARY CHASE: The pending proposal, from the committee on executive branch, **Committee Proposal 71**, a proposal to provide for the election, term and duties of state officers, allocation of departments, and so forth. Section g has been considered, amended and passed. A new section h was agreed to and passed.

*For last previous action by the committee of the whole on Committee Proposal 71, see above, page 1903.*

Mr. Martin, on behalf of the committee on executive branch, now offers a new section i as an amendment:

1. Amend page 5, following section h, by inserting a new section to read as follows:

"Sec. i. Within 2 years after the adoption of this constitution, the legislature shall establish a civil rights commission within the executive branch to secure the protection of the civil rights guaranteed by this constitution. In the event the legislature does not establish a civil rights commission during this period, the governor under the provisions

of this paragraph shall by executive order establish such a commission."

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

**MR. MARTIN:** Mr. Chairman, in presenting this committee amendment, I would like to make a very brief statement. In Committee Proposal 26 from the committee on declaration of rights, suffrage and elections, which was approved on first reading by a unanimous roll call vote, it was stated:

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, religion, sex or national origin. The legislature shall implement this section by appropriate legislation.

The committee on executive branch submits the present amendment to Committee Proposal 71 after a study of several delegate proposals, because it has reached the conclusion that it is not sufficient to make general statements in the matter of civil rights but that some action is needed to secure the protection of those rights other than the general statement that such rights exist. The committee therefore believes that a civil rights commission should be established for this purpose.

The members of the committee do not disagree with the view that under ordinary circumstances the establishment of such a commission should be a matter of statute generally and as to details. In this case, however, they feel that the constitutional reference to the commission is justified and is complementary to Committee Proposal 26. Further, they have taken note of the fact that legislation pertaining to the establishment of such a commission has not been considered by the legislature in plenary session in any form. They are equally impressed with the vital character of the rights involved and the necessity for the protection of such rights against discrimination if this state and this nation are to live up to the principles which we profess to the world and if we are going to live in peace and harmony with our fellow men here in the state of Michigan and elsewhere. We appreciate that we may not be able to prevent discrimination in many cases, but we do believe that we cannot evade our responsibility to do whatever lies within our power to prevent such discrimination.

The committee amendment does not attempt to go into the detailed structure and powers of such a commission but limits itself to a clear statement of purpose and policy. The detailed implementation of these matters is left to the legislature. Under this amendment the legislature would have 2 years to establish the commission and implement its functions by statutory action. In the event that the legislature does not establish this commission during such a 2 year period, the governor is given the constitutional mandate to do so by executive order.

This amendment was reported by the committee on executive branch by the nearly unanimous vote of the committee. In view of the urgency of the steps here proposed and the present need for action, the committee proposes that this convention act now to declare its aims and purposes.

Mr. Chairman, I would like to yield to Mr. Bentley, the chairman of the subcommittee which considered this matter and reported it to the full committee.

**CHAIRMAN MILLARD:** The Chair will recognize the gentleman from Owosso, Mr. Bentley.

**MR. BENTLEY:** Mr. Chairman and members of the committee, this is indeed, I believe, one of the most forward looking amendments yet introduced by any committee at this constitutional convention. Chairman Martin has explained very well the background and the purposes of this particular amendment. Permit me only to add a few supplementary words.

It will be noted that we are proposing that the legislature within 2 years from the date of the adoption of the constitution be requested—actually required—to establish a civil rights commission. In the event the legislature is unable

for one reason or another to do so, the governor during the third year would have the constitutional power to establish the commission by executive order. Members of the committee, Mr. Chairman, will recall that this exactly parallels our proposals already adopted by the committee of the whole with respect to the overall reorganization of the executive branch of the state government. In other words, the members of the committee of the whole will recall that we have already approved the right of the legislature within the first 2 years following the adoption of the constitution to reorganize state government and it is further provided that if this reorganization is not completed within the first 2 years that the governor by executive order shall fulfill the provisions of the reorganization. We are attempting to follow that pattern in this committee amendment which we offer for your deliberation at this time.

I think, Mr. Chairman, it probably would be helpful—if this committee amendment is adopted—when the committee on style and drafting works its will on Committee Proposal 71, if this particular portion were included directly under the reorganization section—that is section b of Committee Proposal 71—since it does relate so closely to this matter. But I might explain, Mr. Chairman, that this question was considered by the committee on executive branch at a rather late date and it was thought more desirable to offer it as a separate committee amendment rather than to incorporate it into the body of a proposal which had already been pretty well drafted.

As Chairman Martin has pointed out, this was referred by him to the subcommittee on executive reorganization of which I am chairman. It was approved within the subcommittee with bipartisan support. It was reported to the full committee and thereupon approved by a vote, as I recall, of 17 to nothing.

I would hope very much, Mr. Chairman—and I speak with all the sincerity of which I am capable—that, although I know this matter is controversial and I know there are pending amendments on the secretary's desk to change portions of the amendment, that I would hope that just as the committee of the whole took action on Committee Proposal 26 by unanimous roll call vote that this proposal of ours, this committee amendment, will receive if not unanimous at least a very substantial degree of bipartisan support because I believe, Mr. Chairman, that this is something which under no circumstances should ever be permitted to become a partisan issue. I believe under no circumstances should this ever be the exclusive province of either party. I would hope that the issue is far reaching, important and, as I said earlier, forward looking enough to merit and receive the overwhelming support of a majority of the delegates to this constitutional convention from both political parties so that we can continue the work of moving forward in this direction which we had already begun when we adopted Committee Proposal 26.

Mr. Chairman, for a further presentation of this matter, with the permission of the Chair, I would like to yield to the distinguished delegate from Detroit, a very valuable member of both the subcommittee and the committee, Mrs. Elliott, who was so active in getting this proposal to the attention of the executive committee and in seeing it brought forward through the committee. I would like to yield to Mrs. Elliott at this time, if there is no objection.

**CHAIRMAN MILLARD:** The Chair will recognize the delegate from Detroit, Mrs. Daisy Elliott.

**MRS. DAISY ELLIOTT:** Mr. Chairman, fellow delegates, I deeply appreciate the opportunity to bring you these remarks in support of a civil rights commission. Those of us who seek the establishment of a civil rights commission are inclined to agree that this is a legislative matter. We would not have conceived the idea of requesting constitutional provision for the commission had not the legislature refused to adopt any of the civil rights bills which have been introduced during the past 5 years. In fact, you might recall that just 2 weeks ago a proposed bill was not even voted out of committee and given the benefit of floor debate and vote. Under such circumstances as this, it is our position that the legislature has



not accepted its responsibility and our proper recourse is to go to the people with this problem.

We believe this matter to be an appropriate one for the convention, since it is the purpose of this body to examine the basic law of the state and to make such changes as are necessary to make it functional and responsive to the needs of our day. Therefore, we present you with the problem of providing the constitutional framework which will guide the legislature in its deliberations and action in the area of human rights.

Between 17 and 18 states have adopted civil rights legislation and created civil rights commissions. Because Michigan has not pioneered in this area of human rights legislation in the face of just reason for this kind of action, does it mean that Michigan is less concerned over the problems of its minorities? As yet Michigan has hesitated, and we believe that this hesitation is more the result of political feuds, urban renewal jealousy and labor-management feuds than it is a lack of interest and conviction in these matters. It is our sincere hope that the delegates to this convention, sensitive to the very basic importance of civil rights in our individual community and national life will rise above these differences and will provide here the strongest provision possible for protection of these rights.

Excerpts taken from the speech of General Eisenhower when he appeared before this convention on the question of equal rights are as follows:

... I believe that every individual ... possesses a moral responsibility in this field. We are citizens of a free nation and whenever we impinge upon or diminish the freedom of another individual, we impinge upon our own. I believe that self interest demands that every single individual put himself foursquare on this principle. Certainly it is implied and stated as solemnly as it can be in the constitution. I see no reason for any state refraining from making such a declaration. I would be very much in favor of it.

Father Hillsberg of Notre Dame University and the United States commission on civil rights, quoted in section 1, says:

I don't care if the United States gets the first man on the moon if we down here on our corner of the earth, nursing our prejudice and flaunting our magnificent constitution, ignore the central moral problem of our times and appear hypocrites to all the world.

Bishop Pike of the Episcopal Church says that "God has no need of us as a nation denying justice and brotherhood."

In the eighteenth century the federal union and constitution were possible because of political maturity and experiences in self government of the colonies. Many of the most valuable concepts embodied in the federal constitution came from the state constitutions. Today the people of Michigan through their constitution have a great opportunity to contribute to mankind's progress. I hope you will support the committee amendment. Thank you.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: That is all we want to present at this time, Mr. Chairman.

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

MR. YEAGER: Mr. Chairman, ladies and gentlemen of the committee, in discussing this amendment I think we should take a look at house bill 254 which proposed to establish a civil rights commission in the last session of the legislature, which has been defeated 4 or 5 different times by that body and was defeated this year. I want to read 2 or 3 paragraphs of this bill which in my judgment is not the harmless provision that some of the advocates in this convention have called it. "Section 6e. The commission shall receive, initiate, investigate and pass upon charges of unfair practice." The key word in this particular paragraph is "initiate" —

MRS. HATCHER: Mr. Chairman, a point of order.

CHAIRMAN MILLARD: Mrs. Hatcher.

MRS. HATCHER: Mr. Yeager is not on the subject. He is reviewing matters that came before the legislature and I think the issue on the floor at this time is the question of the

civil rights commission before the constitutional convention.

CHAIRMAN MILLARD: Your point is well taken.

MR. YEAGER: Mr. Chairman, I should like to answer that the question before the house is the civil rights commission and I am reviewing this civil rights commission provision which bears directly upon this subject, and I would request permission to continue.

CHAIRMAN MILLARD: The Chair will rule that the bill in the legislature is not before this convention and that you should confine yourself to a discussion of the merits or demerits of the proposed amendment to Committee Proposal 71.

MR. YEAGER: Mr. Chairman, when Mrs. Elliott spoke she quoted General Eisenhower and various other people and their information was not before this convention either. It is simply supporting information and I would request to continue. Is this the final ruling of the Chair?

CHAIRMAN MILLARD: It is.

MR. YEAGER: Is it possible for me in my remarks to make any reference at all to a bill on setting up a civil rights commission before the legislature?

CHAIRMAN MILLARD: The Chair should think that you could mention the fact that a bill had been introduced in the legislature but not discuss the provisions of that bill. The Chair does not think that is before this convention.

MR. YEAGER: Well, Mr. Chairman, I hate to belabor the point but the thing that we are discussing is the possibility that the legislature can establish such a civil rights commission and the possible provisions of such a commission is the basis and crux of the whole argument.

CHAIRMAN MILLARD: Again the Chair says, Mr. Yeager, that the provisions of that bill are not before this convention.

MR. YEAGER: I can make no reference to what the civil rights commission bill contains?

CHAIRMAN MILLARD: Not as part of the argument. If you want to use something to show the defects of this particular amendment, the Chair does not think you should use that bill as a basis.

MR. YEAGER: Mr. Chairman, since I had my remarks prepared around the contents of such a bill and what it can possibly do to the citizens of this state, I must respectfully appeal the ruling of the Chair.

CHAIRMAN MILLARD: The question is upon the ruling of the Chair. All in favor of supporting the Chair will say aye —

MR. KUHN: Mr. Chairman, may I suggest that we follow the rule on an appeal from the Chair which we have not done to date and I would suggest the secretary read it so we know how to do it.

CHAIRMAN MILLARD: The secretary will read the rule.

SECRETARY CHASE: Rule 69 reads as follows:

On all appeals from decisions of the Chair, the question shall be "Shall the judgment of the Chair stand as the judgment of the convention?" which question shall be decided by a majority vote of those present and voting by a recorded machine vote, unless otherwise ordered by the convention.

Of course, in committee of the whole you do not have a recorded machine vote.

MR. HEIDEMAN: Mr. Chairman, may I just ask a question?

CHAIRMAN MILLARD: What is your question?

MR. HEIDEMAN: If we cannot have free speech at a constitutional convention where can we have it?

CHAIRMAN MILLARD: For what purpose does the gentleman rise, Mr. Higgs?

MR. HIGGS: I would like to make an inquiry, I think, inasmuch as this is very significant. When the committee votes on this particular issue, it is my understanding that it becomes precedent — the decision of the committee. Now I am not sure I understand the full impact of the decision of the Chair, the judgment of the Chair, in this particular and, inasmuch as it is so important, I would like to have the Chair restate the ruling upon which we are voting. There was a certain amount of colloquy between the Chair and the speaker and it is not clear in my mind. I make this point and plea for clarity

because it seems to me that I would like to know more about the subject matter upon which we are voting.

CHAIRMAN MILLARD: The Chair ruled that the bill which was before the legislature is not up here for discussion and if we are allowed to go into that we are taking the prerogatives of the legislature. The Chair thinks that the question is strictly upon this amendment which has been proposed by the committee. Judge Dehnke.

MR. DEHNKE: Mr. Chairman, it seems to me that it is most appropriate for us to be reminded to what it is that we are opening the door, what the possibilities are in what has already been attempted under this general theory. I do not consider personally that Mr. Yeager is violating the rules.

CHAIRMAN MILLARD: Mrs. Hatcher.

MRS. HATCHER: When I called the point of order I called the point of order because a precedent had been set. For the last 2 or 3 days we have been talking about the highway commission and on the question of confirmation before the senate. Each time that the delegates attempted to try to use information from the senate with regards to confirmation they were ruled out of order. This is where I drew the precedent. At this time Mr. Yeager has an appeal on the floor to appeal the decision of the Chair and I trust that this decision will be upheld.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Mr. Chairman, just in the name of consistency, I think—and I was the one who the other day raised a question on whether or not an individual's name could be used on the floor—I think the line, and I agree this is a fine line, is that we are not here to perform the function of the legislature. I think, though, that if the general subject matter is one that affects the amendment that we have been pretty broad so long as people held a general relationship to the subject matter. I am the first to realize this is difficult for the Chairman because then as the talks are given he must occasionally make rulings concerning that as he did the other day, and I think the Chair's ruling the other day after our recess was perfectly proper on not discussing personalities as such but recognizing that at times individuals had to be mentioned in relation to the subject matter. I would hope that whatever the ruling is that it could be construed that we are not trying to set ourselves up as a legislative body that the pros and cons can be discussed in the full public arena.

I might add that it is very possible that Delegate Yeager and I will disagree on the ultimate outcome but I still think that so far as it is within decorum that the delegates should have as broad a right to discuss as possible, so long as it is related to the subject matter and is not trying to redo another branch of government's work.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Mr. Chairman, I would like to respectfully request the Chair to alter its ruling to permit Mr. Yeager to go ahead and give this analysis. I think it is relevant and I think possibly the ruling of the Chair is broader than it should be. It seems to me, as I understand it, that what Mr. Yeager is attempting to do is not to debate the merits of the legislation but the question of what happens if we tell the legislature to do something, what they are likely to do. I think that is what he was starting to do.

MR. YEAGER: Yes.

MR. NORD: If that is what he was attempting to do, he certainly should be permitted to do it, in my opinion, and I would like to suggest respectfully to the Chair that when in doubt it seems to me the best procedure is to let the evidence in and we can give it whatever weight we think it is worth. I think it is a dangerous precedent to shut somebody off who is speaking before he has had a chance to state his point and I hope the Chair will reconsider before we have to decide the question.

CHAIRMAN MILLARD: Mr. Lawrence.

MR. LAWRENCE: Mr. Chairman, there are 2 things that occur to me on this rather sensitive—I think—subject and I would like to support what Mr. Downs and Dr. Nord said, for these reasons: first, as I recall it, Mrs. Elliott in her

remarks referred to the fact that no bills, although submitted to the legislature for a number of years, had passed, and secondly, I am very anxious to see that Mr. Yeager's civil rights are protected, the right of free speech.

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: Mr. Chairman and fellow delegates, it is my view, too, that Mr. Yeager should be given the right to express himself as long as he is talking on the subject and as long as what he is presenting will help us to make a decision. I agree with Mr. Downs and Dr. Nord on this point.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, could I make this suggestion? The committee has no desire to in any way cut off the debate on this and I think if the Chair were willing to modify its ruling simply to the effect that Mr. Yeager in discussing a bill in the legislature should make it clear that this is not necessarily the bill that is called for here because the amendment gives the legislature full authority to do as much or as little as it sees fit, if he would simply make it clear that this is a bill but that this is not what the amendment is directing the legislature to do, I think if the Chair could modify its ruling to that extent and if Mrs. Hatcher could withdraw her objection, we might proceed in good order here. We do not really have any desire—

CHAIRMAN MILLARD: Mrs. Hatcher.

MRS. HATCHER: Mr. Chairman, in view of the discussion that has just taken place in the last few moments—I still believe that there is a principle involved—however, I will withdraw my objection to Mr. Yeager's comments at this time.

CHAIRMAN MILLARD: Mrs. Hatcher's objection has been withdrawn and Delegate Yeager will proceed.

MR. YEAGER: Thank you, Mr. Chairman, ladies and gentlemen, I will follow Mr. Martin's suggestion and state that what I am about to read from is simply a proposed bill on establishing a civil rights commission in the legislature and is not specifically what this provision would necessarily do.

I should like to start again because we have had some interruptions between the time that I initially started.

Section 6e. The commission shall receive, initiate, investigate and pass upon charges of unfair practices. The key word in this particular provision is "initiate."

Section 6f. The commission shall hold hearings, subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith to require the production for examination of any books or papers relating to any matter under investigation or in question before the commission. The commission may make rules as to the issuance of subpoenas by individual commissioners. Contumacy or refusal to obey a subpoena issued pursuant to this section shall constitute a contempt upon the application of the commission punishable by the circuit court of the county in which the witness resides, transacts business, or is found. This makes it a criminal matter. Section 6g says:

The commission should utilize voluntary and uncompensated services of private individuals and organizations as may from time to time be offered.

I simply raise the question: does this include political groups? Section 6l of this proposed civil rights commission that was before the legislature states that the commission shall "initiate complaints involving discriminatory practices"—to initiate complaints. Section 7e says, "After the filing of any complaint or upon the initiation of a complaint the commission shall . . ." and so on, giving procedure.

Now the paragraphs which I have just read are part of the proposed bill establishing a civil rights commission and, as I said, was turned down by the legislature this year as in previous years. Now such a bill, if enacted under the possibilities of this constitutional provision, could allow such a commission to initiate for political or any other reason, personal or otherwise, could put any citizen in criminal jeopardy and, upon the initiation of any person or group, anyone could be harassed or jeopardized even without basis in fact. The burden of proof for all practical purposes and

the defense against such charges would be upon the citizen. The commission would make all rules. This constitutional provision puts no limitation as to what the commission shall consist of. This is no longer simply enforcing civil rights; this is the creation of an administrative monster. It can be used in many ways to violate freedom. No progressively thinking person denies the need for real civil rights improvement but the abuses that could emerge from such a commission could violate all rights.

Under this provision it states that if the legislature fails to act within 2 years, the governor shall establish a commission, in effect allowing one man—assuming the legislature did not act—one man the authority to create practically unlimited power. If this is adopted I predict great abuse in the name of civil rights.

Let us assume another aspect: that this section is adopted, that the legislature fails to act in the 2 year period, that the governor does act and establish such a commission, and a year later the governor decides to change his original work. The legislature fails to enact such changes. Can the governor just 2 years later rewrite this law? I submit that under the wording of this provision that this is a very real possibility.

I consider the cure here considerably worse than the illness. I think this has more pure political consideration than deep felt concern for civil rights and in my judgment is the height of hypocrisy. The fact that it is referred to as "harmless" by some people indicates the degree of sincerity. I submit it is not harmless; it has great potential danger to individual freedom in the name of civil rights.

It is said that this provision does not do any of the things that I have cited, but I submit this provision certainly does not prohibit any of the things I have cited and such provisions have been introduced into the legislature actually. Because of real concern for individual freedom of thought, on political or any other subjects, I urge you to vote no on this amendment. Thank you.

CHAIRMAN MILLARD: The Chair will recognize Delegate Howes.

MR. HOWES: Mr. Chairman, fellow delegates, I rise to speak in favor of this amendment. I am in favor of the principles used in setting up this civil rights commission. I believe that we should work with every effort and ability which we possess to never allow so called superior groups or races to gain sanction of the law because history has taught us that whenever feelings of superiority of one group or race over another are allowed to come in civility and justice go out, and I believe the danger under the commission is that in a moment of enthusiasm we will establish too many laws under it which will try to force reforms in our society in 1 year which would normally take 10 with the same objectives in view. How much trouble are we willing to encounter in our effort to achieve in a few months or a few years what normally would take a few decades or a few generations?

I am for the civil rights commission but I believe that it should be a part of our job under this commission to not promote too many laws which would, in our haste for reform, open the way for more trouble than that which we seek to avoid. I am also afraid that if we do not open the door to reform in our society by setting up the civil rights commission that door may be broken down by those who are oppressed by its being closed.

CHAIRMAN MILLARD: Delegate Stevens.

MR. STEVENS: Mr. Chairman and ladies and gentlemen of the committee, I am opposed to this amendment, first, because it is statutory in nature. Nobody denies that. The comment of the committee concedes it. I will stipulate, however, that statutory matter in the constitution is neither unique nor unusual.

Second, I am opposed because it appears as if the proponents anticipate enforcement of certain laws by an administrative board instead of the usual and ordinary way in which most laws are enforced. It would create, presumably—looking at the comment, because it is difficult to see from the text—what it might possibly do is to create a quasi legislative administrative board with all the arbitrary characteristics which are so common in these boards. We have heard much of this matter of arbitrary action in which a board serves as

the prosecutor and the jury. This, of course, might be worse. It might not be as bad as some others. It would depend a great deal probably upon the personnel of the board. I am particularly concerned, however, as a member of the committee on rights and elections, because I thought we did a very good job there in providing a basic law in the matter of equal protection and antidiscrimination provisions.

Now while this text does not say so, from the comment I assume that it is concerned not with all of the rights of the declaration of rights but those which deal with certain areas of discrimination only. In that field we provided the best we knew how and I think with a great sincerity. These were not intended as pious words or general statements as the committee comment implies and we certainly are, perhaps, a little bit hurt if that is what it means. We expect that they will be enforced. They are enforceable in the courts as any laws are enforced and in the opinion of most of us who worked on it they will be enforced. If anybody believes, if anybody hopes, that they will not be enforced I say to you that they certainly will be and it will not require an administrative board to do it. Thank you.

CHAIRMAN MILLARD: Delegate Higgs.

MR. HIGGS: Mr. Chairman, I would like to direct a question to Delegate Bentley, if he cares to answer.

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

MR. BENTLEY: I will be happy to.

MR. HIGGS: Mr. Chairman, Mr. Bentley, I would like to know what thought was given by the committee concerning the question—assuming the legislature does not act within 2 years and assuming that the governor does act—first, what is the scope of his authority in establishing this commission?

MR. BENTLEY: Mr. Chairman, in reply to the question from the gentleman from Bay City, I will say that the scope is equal to the powers which we have already approved for the governor to reorganize by executive decree under the general provisions of the reorganization article in the event the legislature does not reorganize within the initial 2 year period.

MR. HIGGS: Well, Mr. Chairman, Mr. Bentley, my question would be: what is the scope of that authority? Is it the full legislative power that the legislature is given in the first sentence? In other words, in the second sentence does the governor alone have the full power that the legislature would have in the first sentence to set up this commission?

MR. BENTLEY: Mr. Chairman, I am going to yield to the chairman of the judiciary committee for a reply on this but I would like to read for the benefit of the gentleman from Bay City the following language from section b of Committee Proposal 71, which says, "If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make such allocation."

Mr. Chairman, the question of the scope and the authority of the governor to establish this commission by executive order and how far he could go in such a direction has been discussed with the chairman of the judiciary committee, our esteemed delegate, friend and colleague from Muskegon, the well known lawyer, Mr. Danhof. With the permission of Mr. Higgs and the Chair, I would like to yield to him for his opinion on this subject, as a lawyer.

MR. GUST: Would you yield to me first, Mr. Bentley? I have got a matter of pressing and urgent need. I find—we are having a—

CHAIRMAN MILLARD: Mr. Gust, just a minute.

MR. GUST: Can I state my point?

CHAIRMAN MILLARD: The Chair will recognize Delegate Gust so it will be on the record.

MR. GUST: Thank you, Mr. Chairman. Excuse me. We are having a committee on administration meeting in there on a very important matter that came up. It was brought to our attention that we should have secured the permission of the delegates under one of our rules, and I would respectfully request at this time that the delegates to this convention excuse the members of the committee on administration so that we might take this matter up.



CHAIRMAN MILLARD: Mr. Gust, the Chair has been informed that the committee of the whole cannot excuse anyone.

MR. GUST: Well, alright. Maybe you can make—do we have to rise to do this, Mr. Chairman?

MR. BENTLEY: Yes.

MR. GUST: Well, Mr. Chairman, we are meeting and we are taking up the matter on our agenda but one of the members of the minority raised this point and so I thought that I ought to bring it to the attention of the delegates.

CHAIRMAN MILLARD: Now, Mr. Gust, if you want official permission to meet it will have to come from the convention. However, nobody is holding you in your seat if you walk out.

MR. GUST: Alright. Thank you, Mr. Chairman.

MR. BENTLEY: Goodbye. (laughter) Mr. Chairman, again, if I have the permission of the gentleman from Bay City who, I understand, has the floor, and the permission of the Chair, I would like to ask the gentleman from Muskegon to give his legal opinion on this subject.

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

MR. DANHOF: Mr. Chairman and Mr. Bentley, I feel flattered that you wish to ask my particular opinion in this regard, being but one of 57 lawyers. I hesitate to step into this particular lion's den. In going over this matter—in talking very briefly with you and Mr. Martin yesterday, this particular problem was raised. It would appear to me that only the legislature could grant to this particular commission such powers, duties and rights as it may need or deem necessary. Now it would seem that if the legislature does not act, the governor can establish the commission. I doubt very much—unless there has been a grant by the legislature to the governor and then back to the commission or directly to the commission by the legislature—that such things as subpoena power or enforcement power could be granted to the particular commission and also the particular idea of appropriation.

I do think that under this particular amendment that the governor could create the commission, its size, and in probably some way define what its objects were and could bring the commission into being. He would then probably hope and would request that public pressure and public interest would be such that the legislature would see fit to staff it and give it necessary appropriation and power. But the commission itself could be brought into being. Now I am simply stating my own opinion. I haven't checked this with my committee in any way. Yesterday was about the first time that I looked at it and certainly if there are other constitutional lawyers out of the 57 who have any different opinion, why, they certainly would be welcome to state it.

I don't see how the governor could grant to the commission subpoena power or enforcement power that he has not acquired from the legislature and particularly, also, in the field of appropriations, but the commission could be established, the size, the number, perhaps its scope, what the objects of the commission would be, and it would be brought into being. Now if the gentlemen are willing to serve perhaps without pay for some time, they could bring such pressure as would put the legislature on notice that it should staff the commission and give it the necessary powers. That is my own personal opinion, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Higgs.

MR. HIGGS: Mr. Chairman, a second question that I would like to raise in this connection would be: assuming the legislature did not act and assuming that the governor did act—I direct this to Mr. Bentley or to any other proponent of the amendment—where would that leave the legislature then? Is this initial enabling provision, the initial enabling provision contained in sentence 1, exhausted at the end of 2 years? In other words, if they fail to act in 2 years, have they exhausted their power under this section and is the power then solely in the governor under the second sentence?

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, in reply to this question of the gentleman from Bay City, Mr. Higgs—he being a

distinguished lawyer, as we have all learned during the course of the convention, and I not having this benefit of legal training—I would hesitate to enter into an argument with him as to what the particular section might construe, but it would be my personal opinion that the passage of the initial 2 year period would not thereby estop the legislature from taking action in this field if it subsequently decided to do so, since we have already heard from the distinguished chairman of the judiciary committee that the legislature would have to grant certain additional powers to the commission, which have been already enumerated, in the event the commission was to be a properly functioning body.

MR. HIGGS: I would like to yield, Mr. Bentley, to Mr. Martin, who would like to reply, I believe.

CHAIRMAN MILLARD: Mr. Martin, do you want to reply to this question?

MR. MARTIN: Mr. Chairman, Mr. Higgs, it is not the intention in any way to hinder the legislature from further action in this matter. The governor might act. He would even set it up, say, "We are going to have a commission and the commission shall consist of such and such people. The general purpose shall be so and so." The legislature, as Mr. Danhof pointed out, would have to implement that properly and the legislature—regardless of how the governor acted—would have authority to go forward and pass additional legislation if it were not satisfied with the number of persons on the commission or the size of the commission, the term and so on. There would be nothing to prevent the legislature from taking further legislative action.

MR. HIGGS: Well, Mr. Chairman and members of the committee, I feel constrained to oppose this at least in its present form. I think that in examining the constitution the courts will have to take the words at face value unless there is an ambiguity or unless there is contained within the words language which would reserve to the legislature the power to act in this area where the governor has expressly been given the power to act.

Now I do not know whether I have distinguished myself, Mr. Bentley, favorably or unfavorably in this convention, but I raise these questions, I think, sincerely. I am really personally not prepared to support the establishment of such a commission in the constitution—one that I know so little about. I know so little about the structure of the commission that we are authorizing. I know so little about the power that we are granting to both the legislature and the governor to give effect to this.

I am concerned that the proponents themselves concede that this is a legislative matter. Inasmuch as it is a legislative matter then one of the serious responsibilities of the legislature in proceeding to establish such a commission involves a great deal of study, research, examination of the experience of other states with other commissions. I just personally do not have the background as a delegate to support this. I am impressed by the argument of Delegate Stevens that we have provided equal protection of the laws enforceable in the courts. I just don't see how—if we are going to make that enforceable in the courts—how this can supplement that by making it enforceable in an administrative agency, if that be the purpose. I think we are giving a blank check here to the governor as to what he can do.

Now when Delegate Danhof spoke, I noted—being privileged to serve on his committee and respecting his judgment as a lawyer—I noted that he very carefully used the words "could probably" when he was describing what could be done. He used the words "could probably." The governor "could probably" determine the size of this commission and possibly the scope," I think he said. But the scope and the power of such a commission are so vital in my mind that we should spell it out; if we are going to legislate in the constitution, let us spell out exactly what the commission is we are creating. Let us spell out exactly its powers, its scope of review, methods of procedure and enforcement. I just do not know what we are doing—as a lawyer, as a layman, or otherwise. I do not know anyone here who is not sympathetic with the desire to move forward in this field and I do not

want my action in this regard to be interpreted as not being willing to move forward, but if I am going to move forward I want to know in what direction I am going and I want to know what we are doing and I am just fearful at this point that we are simply creating a commission, a part of government, the outlines of which are entirely vague and ambiguous and very possibly meaningless.

CHAIRMAN MILLARD: The Chair will recognize the lady from Grand Rapids, Mrs. Judd.

MRS. JUDD: Mr. Chairman, members of the committee, I well understand the fears of many people of the use or possible abuse of the opportunities for service to be found in such a commission as has been proposed. Indeed, I think that the people who would so abuse it are their own worst enemies and the very ones who make it so difficult for citizens with vision and understanding to work constructively to ease these problems. However, I know both from personal friendships and through civic activities of the problems and their effect not only on individuals but on the whole tenor of community and political life. I am aware that these problems are of the type that require careful handling, and often are best handled in the preventative stage.

Now I believe that the fears against abuse are in good part answered by 3 proposals in our convention and on these proposals I would lean very heavily as curbs against abuse of power: the first is the declaration of rights proposal itself, Committee Proposal 26. This provision for a commission to my way of thinking is for the single purpose of implementing the provision in the declaration of rights. I am not sure that this is exactly the way that Mr. Martin interpreted it but I would like personally to feel that the scope of its power would be confined to implementing the clause in the declaration of rights. The second is Committee Proposal 123, from the legislative powers committee, on which we have not yet acted and which I think would be very important for us to approve. It protects the authority of the legislature over rules made by administrative agencies. In case you have not looked at it, I might just note for you that it authorizes the legislature to establish standards for such rules and subjects them to law. It also says:

The legislature may require any rule or regulation to be laid before the legislature concurrently with its filing with the secretary of state; and the legislature may reserve the power to suspend or annul any such rule or regulation by legislation. A legislative committee may suspend any rule or regulation until the next session of the legislature in such manner as may be prescribed by law.

Furthermore, in Committee Proposal 95, the convention has already acted on first reading on giving the courts the power of judicial review on the findings and decisions and rulings of administrative agencies.

Now I would think that these 3 clauses would be protection against the extension of power and the abuse of power by any such commission, which would give us all assurance that this commission could be used to solve the problems which are—at least to attempt to solve the problems which I am sure we are all vitally concerned with.

CHAIRMAN MILLARD: The delegate from Detroit, Mr. Binkowski.

MR. BINKOWSKI: Mr. Chairman, I would like to direct a question to Mr. Yeager.

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

MR. YEAGER: I will attempt to answer.

MR. BINKOWSKI: Mr. Yeager, the question is: do you know how long there has been civil rights legislation such as house bill 254 introduced into either house of the legislature and, if so, if any civil rights legislation has ever been reported out of committee?

MR. YEAGER: As far as I know I believe it has been 5 years. I don't believe any has ever been out of committee.

MR. BINKOWSKI: Thank you, Mr. Yeager. Well, ladies and gentlemen of the committee, I do not believe that Mr. Yeager's answer is entirely accurate because I think there

was civil rights legislation introduced into the legislature at least 10 years ago by Senator Diggs and I think that you have to realize that just recently in the Detroit newspapers there has been publicity of the fact that the proponents of civil rights legislation have not even been able to get an adequate or fair hearing before the house with respect to this legislation, and I think that the reason for this amendment is to give or compel the legislature to act in an area where it has consistently and continually failed to act.

This language which we are considering, in my estimation, is watered down language. I cannot conceive of how you can have any more of a watered down provision before this convention. If you go back to the committee reports, I think you have to take into consideration one of their statements which I would like to quote, "They"—the committee—"are impressed with the fact, however, that the legislative committee handling this matter appears unwilling to permit the legislature to consider these matters in any form."

Therefore, ladies and gentlemen, I think if we want to do anything in this area we are going to have to put it in the constitution.

Now there has been some objection raised as to the fact that this is legislative in nature and I do not think that anybody would disagree with this, but I think that there are many matters which are legislative in nature which we have approved. And of course we have gone a great deal into the area of the civil service commission. Strictly speaking, this is a legislative matter, also.

Now as to the fears which Mr. Higgs expressed, I would like to make this flat statement: that every reorganization plan or every executive decree is subject to legislative change. There is nothing that the legislature cannot handle, cannot amend in any way possible.

The second point and important consideration, which Mr. Danhof has already related to this committee, is the fact that the legislature controls the purse strings. If the legislature does not want this particular commission to do anything, they will refuse to appropriate sufficient funds or any funds whatsoever. And I think we have a nice example of this with the department of labor. The department of labor is not as effective as it could be because of inadequate funds. So, again, if we want to do anything in the area of civil rights, this is the time to do it even with this watered down provision.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Mr. Chairman and fellow delegates, I believe that the intent of this is really to implement what was done in the rights, suffrage and elections proposal which, as we recall, basically took the equal protection concept of the United States constitution and put that in the Michigan constitution with the admonition that the legislature should act. I supported that. I would have favored our being more specific, but I think we did make a definite step forward. Now the question comes up as to how we carry out the constitutional provisions of equal protection of the law in the broad concept.

Ordinarily and in many situations, simply saying there shall be a right is adequate and the individual who thinks he is denied that or the corporation, as it may be, can retain an attorney and proceed to solve the problem. There are 2 weaknesses to that approach in this area. The first is that in this highly involved social area if we simply rely on the individual to use his legal remedy, the matter is immediately in an adversary proceeding and—while this is some protection and while I think attorney generals' opinions and prosecutors' opinions have some effect on governmental units—the basic problem of the individual is shoved immediately into the adversary without the preceding conciliatory or other educational means possible. So if the individual uses the right he must immediately for practical purposes get in that adversary proceeding without a governmental unit trying to facilitate the prevention. The second weakness is that those who are affected are often—to use the words of Dr. Hannah—the economically disadvantaged and I suppose the

layman's definition of "economically disadvantaged" is a person that cannot afford to hire an attorney.

One of the anomalies of our operation of rights and laws is that often in basic civil rights there aren't many dollars directly involved. If it were a matter of a negligence suit or an auto accident and the individual is economically disadvantaged then an attorney in perfectly ethical practice can take this on a contingent basis, as there is enough money involved so that the attorney can in good conscience take the matter and the individual can be protected. But if instead of a broken arm or a broken leg a man has a broken civil right, the practicing attorney cannot handle it as readily on a contingent basis. So the "economically disadvantaged" are particularly disadvantaged when it comes to enforcing civil rights. So I say that the concept of a commission to carry this out is sound and in many areas I have been critical of the commission concept.

I do not know if this particular language, perhaps, can be improved or strengthened, particularly along the lines talked about to see that it is adequately financed. I will not go into that now. But I do believe in the concept of having a commission review in an orderly manner the field of civil rights and do this so it can include an educational background, a conciliation background, and in many cases prevent the need of adversary proceedings. I just refer very briefly to the civil rights commission of which Delegate Hannah served as chairman, I believe, under 2 different presidents. The reports of that commission in the judgment of many people did a great deal to acquaint the citizens of our country with the problems involved and probably the very reports themselves achieved the accomplishment of many people's civil rights without the necessity of further litigation. So I think that the concept of the commission is sound. I am not sure in my own mind if there should be further strengthening at this point or not. Perhaps that will come up later on in the convention but I feel that the commission concept is good.

I would just point out, and this is a real question: is such an approach an expansion or a reduction of freedom? And I suppose it is a little bit like the idea: do traffic laws improve the individual's freedom or decrease it? Well, maybe it decreases your freedom to prohibit your driving 80 miles an hour down the main street but it increases your freedom to live. I think we recognize that in a nation of law we need to have principles of behavior. I for one think one of the greatest diseases we have is that of discrimination, and I think while we have developed vaccines against polio and smallpox and other things we have not yet developed a simple vaccine in this field. I do think that the analogy, though, is true, that we preserve our freedom of speech so people can argue for or against particular legislative and constitutional proposals off the convention floor or in the newspapers, wherever they seem to have a forum, but at the same time we move ahead by seeing that the sentence that we adopted in the rights, suffrage and election proposal, saying that the legislature shall—if I am quoting it right—pass appropriate legislation to carry that out is simply carried out by this provision. I do not see this as in conflict with the provision we have already adopted but, rather, as the next step forward and perhaps even this needs further strengthening. Thank you.

CHAIRMAN MILLARD: The delegate from Saginaw, Mr. Shackleton.

MR. SHACKLETON: Mr. Chairman and fellow delegates, I have been informed, unfortunately, that this should have been concurrent with rights, suffrage and elections and apparently wasn't. It might have saved a lot of time here. Now it is too late.

There are a few objectives which we set out with that, perhaps, we are not adhering to. One was to reduce the number of commissions. This creates more.

It has been admitted that this is legislative in nature and we are getting too many legislative provisions in our constitution. The civil service is in 3 different sections. It seems

to me that if we are going to write a sound constitution we had better take a closer look at getting too much legislative material in the document, and I believe it would be much better, as we have done in a few other instances, to commemorate the legislature to take care of this matter rather than to add it in here as another legislative article or, if it is so important, we had better do as we did with the civil service: put it in every section of the constitution.

CHAIRMAN MILLARD: Mr. Danhof.

MR. DANHOF: Mr. Chairman, if I might, I have a question for the gentleman from Owosso, Mr. Bentley.

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

MR. DANHOF: Mr. Bentley, I raise the same problem that we raised at the time the judicial article was passed in regard to an amendment offered then by Judge Pugsley and others. You state, "Within 2 years after the adoption . . ." now you don't mean, as Mr. Hutchinson pointed out, do you, that this is a one shot deal, that if the legislature does not act within 2 years it is prohibited from doing anything after that time?

MR. BENTLEY: Mr. Chairman, in reply to the question of the gentleman from Muskegon, Mr. Danhof, I believe the chairman of our committee has already made it quite clear that we do not intend to estop the legislature from taking action in this field after the initial 2 years. We merely provide that within the first 2 years they shall have exclusive authority to act in this field, and provide for executive order if they for some reason do not so act, but we do not estop them from subsequent action if they desire to do so.

MR. DANHOF: Thank you, Mr. Bentley.

CHAIRMAN MILLARD: Mr. Baginski.

MR. BAGINSKI: Mr. Chairman, I find that most of what I had to say was said by the delegate from Detroit, Mr. Downs. I think in this particular day and age that the concept we are putting forth here is something for which we can well afford the work that it is going to cost. This is 1962, and I think it is most advantageous that the state of Michigan has at this time a constitutional convention and has had the opportunity to adopt a section on rights which is most forward looking and one of the most enlightened of its day. I think that the adoption of this particular clause will serve to emphasize that we are here concerned not just with the structure of government but with the rights of individuals throughout all of the state of Michigan.

The problem is not so much one of judicial enforcement but, I think—as has been pointed out—it is one of enlightenment and education in trying to bring to the people of this state in all the areas of the state the problems that there are with regard to civil rights and discrimination. I can state from personal experience that in the town where I was raised there were no problems of discrimination. It was a small community of less than 3,000 people, but upon graduation from law school I moved to the community where I now reside where there are these particular problems and they have been with us for some time. And I am firmly convinced that adversary proceedings are not necessarily the way to secure rights and to educate the people regarding the real evils of discrimination but, rather, it is a process of education that is not accomplished overnight. Whether or not the commission is given the right to take adversary proceedings to me is not perhaps most important.

I think the civil rights commission of the federal government, which Dr. Hannah has headed, has done a good job in pinpointing and laying before the public the facts and the problems and the recommendations and the solutions, and if this commission can accomplish that over the next 10, 20 or 30 years then I think it is well worth the few dozen words that we may use here. According to research and drafting, there were 23,000 words, plus, in the 1908 constitution, and I, for one, will favor this particular provision and hope that it will pass.

If there is further work that should be done on the wording, then it can be done either in Mr. Cudlip's committee or by the executive committee before second reading. But I am firmly convinced that the concept is good and that it will

speak to the entire country of the determination of Michigan to protect the rights and the freedoms of the individual.

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

MR. STEVENS: Mr. Chairman and members of the committee, I would like to clarify a few things. I do not think that Mr. Baginski intended to misrepresent in any way, but when he was talking about civil rights legislation apparently he had in mind legislation to provide a commission or administrative board. Nobody who knows anything about the history of Michigan can deny that Michigan has been a pioneer in civil rights legislation. I do not refer to the creation of such commissions but to the many laws which have been passed for many years, back further than I can remember, which have in many respects provided protection to people against discrimination. They were not always enforced, to be sure, but in recent years they have been quite diligently enforced and it is my observation throughout the state of Michigan that there are only some isolated places where these laws, common statutes, are not enforced.

With regard to Mr. Downs' statements, I do not believe that any individual would ever have any difficulty in getting any adversary proceedings financed. There are several organizations who stand ready at any time. They are able, willing, and anxious to provide the finances wherever there is anything of this nature worth their trouble.

One other thing: this commission as it seems to be conceived here is not comparable to the federal commission, which is a fact finding commission. This commission seems to be designed—if you can figure out what the amendment means—to provide for adversary proceedings and more particularly for administrative proceedings where persons would be brought before it on charges of violation. Thank you.

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, when this subject came up this morning I resolved that I would not speak again on the civil rights subject before this convention because I have already done so twice, but when one spends as much time on this subject as I have in the last 4½ years one cannot help but be deeply moved when he hears well intentioned people discuss a matter of this significance with the best of intentions but quite evidently not recognizing what the facts are.

First of all—and this has to do with the amendment and I will tie it into the amendment but I do not think you can discuss this amendment without recognizing what we are talking about when you talk about this problem of civil rights—I have before me the census figures for the state of Michigan as of April, 1960, when the last census was taken. Then Michigan had 7,823,194 citizens, of whom 737,329 identified themselves as nonwhite and of that number 717,581 identified themselves as negroes. The other 19,000 were made up of indians, Japanese, Chinese, Filipinos, and a few others—I am talking about American indians. Now 737,000 people—or if you want to talk only about the American negro—717,000 out of 7,823,000 is a little more than 9 per cent, a little under 10 per cent of all the people of this state. But in the last 10 years the number of negroes in Michigan increased by 62.2 per cent. In 1950 there were 442,296; in 1960, 717,581. The negro population increased by 62.2 per cent. The white population increased by 19.7 per cent, and the overall population of this state increased by 22.8 per cent.

Now there are a great many people who are inclined to wring their hands and say, well, this is too bad, because we have this very heavy migration from the south of American negroes, but actually we still have in Michigan a few under 10 per cent of the total and the number of negroes in the United States—depending on whose figures you use—probably is equal to approximately 11 per cent.

When we are talking about American negroes, we are talking about the people who identify themselves as negro

when the census is taken. Of course, if they are plainly black or almost black the census taker can identify them as negro but in most cases, if there is any question, they ask the question of them and those that are white in color and can pass for white people, of course, are identified as white. We have somewhere between 19 million, approximately 19 million negroes in the United States.

Now this country has been in business not as long as many people seem to think—175, 180 years, something like that. I would just like to point out to you people that this American negro problem was not a problem created by the negroes themselves. They were brought to this continent involuntarily as slaves and for the most part they were brought to this country more than 160 years ago.

When the constitution of this state was written, the founders of the nation felt that the negro problem would take care of itself; that through laws and precedents they would eliminate the importation of slaves and that somehow or other this practice would disappear, but it didn't turn out that way. We had to fight a great civil war. Next January we are going to celebrate the centennial of the proclamation of emancipation—next January. The point I want to make is that most of the ancestors of negroes in Michigan came to the United States 300 years ago, 250 years ago, 200 years ago, almost none of them more recently than 160 years ago. Now I would like to look at the white people who make up this convention and the white people in the gallery, and you ask yourselves: when did your ancestors come to the United States? And the average answer for the whites in this room will be that our ancestors came to the United States or came to this continent far more recently than the ancestors of the negroes in this room came to the United States.

Now it is no credit to the United States of America that in 1962 we have a situation where I am as certain as I am that I stand before you this morning that the most significant, single domestic problem that this country faces is the problem of decent treatment for minority groups in the United States and principally we are talking about negroes. Four and a half years ago when I was appointed by Mr. Eisenhower as chairman of the civil rights commission I did not know much about civil rights. I was raised in Grand Rapids. I had lived all my lifetime in Michigan. I knew we had had an unhappy race riot in Detroit a few years ago. I had read in the newspapers about what had happened in Chicago and elsewhere when a negro family for the first time moved into a white community. I knew all about the school situation in the south and some of these things that had been well publicized, but that is about all. But ladies and gentlemen, now I am going to repeat the statement I just made: I am as certain as I am standing on 2 feet in this convention this morning that the most important domestic problem we face is this one from the standpoint of maintaining tranquility at home, first of all, and we should be eternally grateful to the good nature of the American negroes and their willingness to suffer long.

Now if it was no problem within the United States, I am very certain that it is very important from the standpoint of the role the United States is going to play in world affairs, because the pervading issue of the time in which you and I live is this continuing struggle between ourselves and our basic philosophy and that of the Soviet-Peking communists. And this struggle is not going to be won on the battlefields. As most of you know I spent a year and a half as assistant secretary of defense. I still maintain an office in the Pentagon, and we don't need to go into this one—I am interested in the military point of view, but I recognize that the war with the Soviet communists and the Peking communists is never going to be won on the battlefields. You can lose it there. You get involved in a war and lose it and you have lost, but you can win the shooting war and still have the long time struggle with the communists.

Now the issue in the world is that the world is divided into about 3 camps: about 1/3 committed to the western philosophy, the capital of which at the moment is Washington; almost

1/3 of the people of the world committed to the basic philosophy of the Soviet-Peking communists, and presently the capital is in Moscow; conceivably in a generation it may be in Peking. These lines are firmly drawn, but about 1/3 of the people of the world are noncommitted and these are the people that irritate us so much, because they are willing to play off one side against the other but, ladies and gentlemen, that 1/3 of the world is almost exclusively nonwhite and whether or not we win this struggle—and I repeat again, it is the pervading issue of the generation in which we live—is going to be determined to a large degree by how we treat minority groups at home.

Now, the words that this convention has already adopted in the civil rights committee proposal that has been approved is adequate. Professor Pollock and his committee turned to me, as the chairman of the commission on civil rights, and I turned to our Washington staff and asked them to come up with the words that they thought were adequate to be included in the state constitution. And pretty largely they were accepted by the committee and by this convention.

But this is another issue. There isn't any question but that this is legislative. This is offered and I hope it is adopted only to get through the Michigan legislature what we have not been able to get—and I said "we." I have taken no role in it at all but I have watched the people trying to get through the Michigan legislature some kind of a provision that would do something that needs to be done and for 5 years in a row they haven't been able to get the bill Mr. Yeager referred to or any other bill even out of the committee. They haven't even as yet been able to get an open hearing. The votes were taken behind closed doors. Never did the issue come out on the floor of the legislature at all. Now you can get excited about the provisions of the bill that Mr. Yeager referred to which was—somebody gave me a copy of it yesterday and certainly I am not in sympathy with the objectives of that bill, but this provision does not do that. All this requires is that the state legislature within 2 years shall create a civil rights commission and they determine what the civil rights commission will do. If the legislature wants to create one of these commissions with police power and give them the right to subpoena and be judge, jury, and prosecuting attorney they can do it, but they are foolish if they do, and that isn't what people, including my negro friends, want. They want some sort of an agency with some public acceptance to give concern to this problem. And, ladies and gentlemen, it is not going to go away; you can't just fold your hands and say, "Well, I'm not going to do anything about it because somehow or other this is going to go away." It isn't going to go away.

We are going to continue to have immigration of negroes with all of the problems. They are American citizens and they deserve respectable treatment. And the issue isn't what comes into this commission. The issue is getting into this constitution something that will require the Michigan legislature to take some cognizance of it. If they do not, then the governor is given that responsibility and no Michigan legislature dare not act and give the governor an opportunity to do they know not what. If these words are in the constitution, the legislature will act. If the legislature is wise, it will come up with a commission, fact finding, with such other responsibilities as they want to give the commission and they can add to those responsibilities as they see fit in the years ahead.

I have talked much too long but I am disturbed always by the Michigan people, the Lansing people, the Muskegon people, wherever they are, that want to take the attitude that civil rights is not a problem for Michigan. Ladies and gentlemen, we are not going to do anything in Michigan that is going to change the situation in Mississippi at all. Mississippi is going to have to settle its problems there and the problem we ought to be concerned with is seeing that in Michigan we move in the direction of making progress and, again, as my concluding statement, this is not a problem to be solved through legislation; it is not one you solve with a club; it isn't one in which you are going to enforce progress;

it isn't an area in which you have a right to expect that progress is going to be rapid or uniform; but we need to have progress and the emphasis has to be in moving from where we are to something better. And Detroit may move in one way at one rate and Muskegon in another way at another rate and Grand Rapids in another way at another rate, but how any American citizen in 1962 can say with any conviction at all, "I am not interested" I cannot understand.

Ladies and gentlemen, I cannot see how you can do anything else but approve this and leave it up to the legislature to determine what the future civil rights commission will do, and I see nothing but good in it, no loss at all. I apologize for talking so vehemently, because to me this is not one of those issues that you just fold your hands over. This is real, and every decent citizen ought to be concerned with it and ought to be concerned with the problems in the area in which he lives. (applause)

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

MR. GREENE: Mr. Chairman and delegates, I would do a disservice to the impact of the words, the very profound words of Mr. Hannah, so at this time I should like to pass.

CHAIRMAN MILLARD: Delegate Higgs.

MR. HIGGS: Mr. Chairman and fellow delegates, I would not like it to be thought by any delegate here and I don't really believe that it is so thought that in approaching this particular amendment and in speaking to questions concerning the mechanics of operation, the function of the commission, and so forth, that in any way it could be conceived that in approaching the development of such a commission that it indicates in any way a lack of concern for the problem involved. I think that I am as deeply concerned as most other delegates, perhaps certainly not as concerned as some inasmuch as not being personally affected. I would like to move forward but I want to be sure we are moving forward in the right direction.

I think a civil rights commission is the right direction. I am not certain that it is properly in the constitution. And I have not had answered the questions that I raised earlier. I certainly share the sentiment of Dr. Hannah, for his concern for the problem but he did not speak to the questions raised regarding the amendment and what it provides for, what the authority of the legislature is, what the authority of the executive is in the absence of legislative action. These are problems that I think we must, as a constitutional convention, answer. If we are going to incorporate this into the constitution as a matter of constitutional law, we have got to spell out the authority of the legislature and the authority of the executive. If we are going to give the governor this power to act, we must spell it out.

I have been asked by several delegates to prepare an amendment to accomplish this. I am not certain I am able to do it. I would welcome over the noon hour having the benefit of the counsel of other delegates who have given this more study than I have. I assure you I am as interested as anyone in moving forward, but this particular language is fraught with danger, I believe. We are writing a constitution for the next 50 years. We cannot experiment. We have got to be sound. I myself am not prepared to vote for this in its present form and I would welcome the assistance of anyone, any other delegates, who can help me resolve these problems.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Grand Rapids, Delegate Tubbs.

MR. TUBBS: Mr. Chairman, I think I share some of Delegate Higgs' concern over this amendment. I also share Dr. Hannah's concern over the problem in general. What can we do about it and how are we going to do it?

We have remedial legislation now. Since long before 25 years ago, as Delegate Stevens has pointed out, this state was a leader in statutory remedies for discrimination in many public places and in many fields, and the supreme court has been quick to uphold such legislation. I remember a case that went up from Grand Rapids involving people in the theater and the supreme court upheld the statute. I think it is reported in about 1927.



We have a complete fair employment practices statute in Michigan and if you do not think it is operating, then I suggest that if you are on a public board, as I was, the board of education of Grand Rapids and you turn down the application of a person for employment in your system and that person happens to be designated on the application as colored, you are immediately called before the commission. There is no chance to cross examine the person who made the complaint. The complainant doesn't even appear. You have the burden of proving that you were not prejudiced when you denied that application for employment.

Now what else do we need? What is this thing going to do that we set up here? We have a social problem, it is true. I think it lies in the field of education. Perhaps, as Dr. Liggett of Union points out, in order to settle it we have got to raise a whole new generation of people. But how can you do that with legislation, either in this constitution or in the legislature itself? And if this is a question of simple remedy, then why doesn't somebody suggest how the thing spoken of by Dr. Hannah can be remedied? Thank you.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Saginaw, Mr. Leppien.

MR. LEPPHEN: Mr. Chairman and fellow delegates, I would like to ask Delegate Bentley a question through the Chair, if I may.

CHAIRMAN MILLARD: If Mr. Bentley desires to answer.

MR. LEPPHEN: Delegate Bentley, as you well know, in the city where I come from, the county, we have a human relations commission and we have supported it all the way, which means, of course, that this, too, has our sympathetic understanding but I am disturbed about some of the language and since the committee has had many, many, many weeks to study this with the intent of clarifying anything that has been raised such as the questions by Delegate Higgs, I pose this question: let's assume that the legislature did, within a year after the adoption of the new proposed constitution, pass civil rights legislation to create a commission and it did not meet the approval of the governor and the governor vetoed it; the same thing happened the following year. Would that carry, then, the implication that the governor had more power to create a commission giving it all the powers that have been raised here, such as the right of subpoena and other things?

MR. BENTLEY: Mr. Chairman, in reply to the question from my good friend from Saginaw, Delegate Leppien, I will say that there is an amendment pending on the secretary's desk which I think will answer the question for him, and I wonder if he could defer his opinion and thinking on this particular matter until the amendment is presented?

MR. LEPPHEN: I would be very happy to, Mr. Chairman, thank you.

CHAIRMAN MILLARD: The Chair will recognize the lady from Detroit, Mrs. Daisy Elliott.

MRS. DAISY ELLIOTT: Mr. Chairman, I am very touched and deeply moved by the remarks that were made here today by Dr. Hannah. In my opinion this is one of the most brilliant speeches that I have heard on the floor of this convention.

I would like to say to Mr. Stevens, Mr. Shackleton, the Yeagers of the convention, and to those who insist that no action should be taken on these propositions because they are statutory, may I argue technically that the constitution itself is but a compilation of laws and statutes which is generally agreed are of such fundamental significance that they deserve constitutional status. However, there is no fixed distinction between constitutional and nonconstitutional subject matter. This distinction is relative and the opinions of experts in constitutional law vary on many points. However, I believe that we might well be guided by the apparent philosophy and intent of the United States supreme court in its interpretation of the federal constitution in relation to civil rights litigation between 1960 and '62:

It must be unmistakably clear to all that this court considers the constitution not in the light of a technical manuscript but as an instrument by which American citizens regardless of race, color, religion, or ancestry

shall share equally in the opportunities, freedoms, and protection which the majority cherish and enjoy.

What we have asked of you in the area of civil rights has an existing counterpart in our present constitution today, namely, the civil service commission. Without question this provision is specific and detailed legislation that could easily be conceived as statutory. Yet, because it serves to protect a large segment of the population against a common abuse, it has been incorporated in the constitution. We agree with this action and hope that it will be retained regardless of whether or not you recommend inclusion of the civil rights commission, but I remind you that the rights we seek to protect here are even more fundamental, far reaching, and subject to emotional or political evaluation than the matters covered by the civil service commission.

Based upon the experiences at the national level and in other states, it is obvious that if this equality of opportunity and justice for the American negro and other minority groups are to be realized in our lifetime, not only must the appropriate laws be created but realistic machinery for their enforcement must be provided. For example, since 1870, it has been illegal to deny or abridge the right of negroes to vote, yet it is general knowledge that in many parts of this nation this right has been flagrantly abused from that day until this. However, it was not until the United States civil rights commission under the chairmanship of Delegate John Hannah began to publicize the facts and recommend remedial action that any hopeful signs of changes have appeared. Again I would like to thank Dr. Hannah for those remarks.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Detroit, Father Dade.

MR. DADE: Mr. Chairman, I rise to speak in favor of this provision. I want to commend Mrs. Elliott for her persistence in bringing this before the convention. I believe this is an implementation of the right which you already have in our constitution and which I trust will be approved by the people.

There have been many fears expressed here on the convention floor of the abuse of this provision. I regret that I did not know this was coming up and I could not bring with me or did not bring with me a letter from Governor Rockefeller. Several months ago we addressed a communication to Governor Rockefeller and we asked him specifically the questions which are contained in the fears expressed by some of the delegates, and the last line in his letter was to the effect that there were fears that if a civil rights commission was established in the state of New York to implement their right in their constitution that business would leave the community, that there would be racial disturbances, that there would be great abuses, and he ended by saying that none of these had come to pass, and this had really been an educating matter and had been most helpful. And I think that this is evidence to show that these abuses that we have feared and this flagrant taking advantage of citizens' rights is something that is a matter of our imagination and not real at all.

I favor this provision. Unfortunately, I feel it is just a beginning. It is a step. It is not the soundest and the best step—I mean the strongest step—but it is a beginning, and we need good beginnings in this matter of civil rights in this state.

CHAIRMAN MILLARD: The Chair will recognize another gentleman from Detroit, Mr. Cudlip.

MR. CUDLIP: Mr. Chairman and members of the committee, I am glad that Dr. Hannah spoke and glad that Delegate Higgs spoke before me, because I agree with both of them. I cannot conscientiously vote for this amendment. I am not clear as to the powers of such a commission and it would affect all citizens and their rights. Here we are not talking about any particular group. We all belong to minorities—businessmen, labor, religious groups, on and on and on.

I would not want to see the chief executive of the state put in a position of conflict with the legislature in this vital area. I think if we adopt this amendment we will undo—undo—the great work we accomplished here in adopting the

equal protection clause when we all stood and that board was universally green. That clause was forward looking. It says:

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, religion, sex or national origin.

Now note:

The legislature shall implement this section by appropriate legislation.

We have got to trust the legislature ultimately; that is agreed; so why antagonize them, whoever they may be, by a constitutional club?

This is so important, this whole area we are now discussing, that I think the matter should be referred to the committee on rights and elections for quick action. That is where it belongs, if you follow my theory that the governor should have no part of this. It can quickly study the matter in light of our proposed bill of rights which it sponsored. We can then see what other states are doing in this field. Let's not botch this matter. I am fearful that this proud advance we made will be cluttered by this sort of thing. It doesn't belong in the executive branch of government. It belongs in the committee on bill of rights. It belongs in our bill of rights.

We could end up here by saying the legislature shall implement this section by appropriate legislation and then go on and talk about a rights commission—call it what you please—and specify right there what we want that commission to do and when. If this is botched by mixing up the bill of rights with an assembly of language like this, I am extremely fearful that we are going to so mess up the whole subject generally and for the future that we won't know where we are going.

My thought is simply that we haven't studied this carefully enough. The place for the language is as I said. Spell it out. Do a job. See what we need to have this commission do, instead of just talking emotionally with a lot of fine words flying around and leave this convention with such an important matter dangling. Dangling for whom? Everyone. Every citizen. Businessmen included. Working people. Lawyers. Anybody that has a civil right. And I am very sincere when I make these observations. I don't think that we should gloss over this at all. Let's thump this nut until it cracks and not just brush it under the rug to get it over with by 4:00 o'clock or 12:00 o'clock. Thank you, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I think it is about time for the committee to rise. I do want to say, however, that Mr. Cudlip's point was discussed with the civil rights committee and they felt that this kind of substantive provision was not a proper part of the statement, the general statement, on civil rights, and for that reason they felt that if it was to be taken up, it should be taken up by the committee on executive branch. This is the reason that we took it up; so that it bears, of course, on the committee proposal from the committee on declaration of rights, but after discussion with them it was made clear to us that this was our responsibility and not theirs, and that is the reason we present it to the convention.

At this point, 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 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 **Committee Proposal 71**, has considered an amendment thereto, has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would just like to remind the members of the committee on rules and resolutions of a meeting immediately following our recess in room R. Please bring your lunch.

PRESIDENT NISBET: Dr. DeVries.

MR. DEVRIES: Mr. President and members of the convention, I wanted to explain to the convention why it was necessary to call the meeting of the committee on administration this morning during general orders. We were told at 9:30 that in order for us to get a supplemental request in for an appropriation we had to have it over there at 11:00 this morning. This necessitated calling a meeting of the committee on administration. I was not aware that we were violating the rules and I apologize for that and call another meeting of the committee on administration for 1:30.

PRESIDENT NISBET: Any announcements.

SECRETARY CHASE: The committee on style and drafting will meet this evening at 8:00 in room K. That is all.

PRESIDENT NISBET: Last Friday Mr. John Hannah presented to the convention a statement relative to the completion of our convention work. He suggested principally that we recess the convention by April 15 and remain in recess until November 12, giving ideas of how this could be accomplished and suggesting that the officers of the convention consider the suggestion and report to the delegates.

The officers, Vice President Romney abstaining, have had meetings and discussions on the suggestion. After these meetings and reviewing the matter with delegates, it has been decided that the suggestion of Mr. Hannah, while it has several good ideas, is not feasible at this time.

The reasons for this decision are basically these:

1. He was hoping we could complete, or nearly so, second reading by the April 15 date, which would give the citizens of Michigan an idea of what the final document would be. This will not be possible. In fact, we will need to shorten our discussions materially if we complete our first reading by April 15. That leaves us only 2 weeks after this one.

2. We would lose our present location with its good facilities. After some investigation, we have determined that we would have difficulty locating a satisfactory place where the delegates could meet in a suitable atmosphere with all of the necessary facilities.

3. Probably the most difficult problem would be our staff, which we would lose. They are efficient, know our work and we would have difficulty with new people who would not know the work of our delegates. The closing days will be most critical, too, and we will need our best staff.

4. Considerable inconvenience would be caused the delegates and make adjustments necessary. Many in their conversation prefer to work through now and complete the document.

5. I hesitate to mention, at this state, momentum. I do not mean speed. The convention, however, is under way and carries itself forward. That would be lost and it would take time to get under way smoothly again. We would also lose the continuity in our discussions and it would take time to pick up the threads again.

The officers want to thank Mr. Hannah for his suggestion, for it has put the convention into focus, has pointed out the need for better action and less waste of time, and has made us realize that May 15 is not too far away. We ask all delegates to use their best efforts to achieve this date for adjournment and at the same time complete our work efficiently.

I would like to call on Dr. Hannah.

MR. J. A. HANNAH: Mr. President and ladies and gentlemen of the convention, as I indicated when I made this suggestion on Friday, it was a suggestion that was seriously made with the request that the officers of the convention as our leadership give consideration to this possibility. It seemed

to me to have some merit. I also recognize that it had many defects and shortcomings.

As the president has just indicated, the matter has been considered and he has given us the officers' judgment and, of course, I accept it. The only objective I had in mind in the first place was that, if possible, we expedite our work, number 1; and number 2, if possible, we take out some of the acrimonious debate and colloquy that has taken place on this floor in recent weeks.

I regret very much that my remarks were interpreted by some as critical of individuals or groups. It was not intended because I think, like many of our problems that face this state, it is not a problem, it is not a flaw, that can be directed at either the majority or the minority party or any of their representatives. But the point that the president has just made — and was made by Mr. Allen yesterday — is that unless we find some way of taking out of these sessions the large amount of speechmaking that is totally ineffective and wasted and changes no votes, we are going to find ourselves on May 16 with the pay cut off and some of us faced with the responsibility of finishing a constitution. And so I accept, as I indicated I would, the report, and I am sure the decision that has been made by the officers is a sound one.

I would only hope that somehow or other the leadership of the majority party and the minority party might get together and see if we can't come up within our rules with some procedure so that if we have to have political bickering that we limit it to 10 minutes on an issue or appoint a speaker and not feel that we are all called upon to make accusations. Every time an accusation is made, 15 people on the other side have got to answer it. Thank you very much.

PRESIDENT NISBET: Thank you, Dr. Hannah.

MR. DOWNS: Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I just wish to say, and I am sure that the report indicates, that Dr. Hannah's suggestion was very seriously considered, very well received, and I personally want to express appreciation for the presentation of the idea. I think it is one of those where the problem was presented and, as so often happens, the answer is more difficult than the problem. But I do think it was of help to the convention to have this called to their attention and just wish to be sure that the delegates realized that. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Sterrett.

MR. STERRETT: Mr. President, I move that we recess until 2:00 o'clock.

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

We are recessed until 2:00 o'clock.

[Whereupon, at 11:40 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. Millard.

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

MR. GUST: Mr. President.

PRESIDENT NISBET: Mr. Gust.

MR. GUST: Mr. President, before you place the question — at this time might I respectfully request that the committee on administration be excused for a few minutes? We have a meeting across the hall. We have another item of business to be taken up.

PRESIDENT NISBET: Without objection, the committee will be excused.

The question is on the motion of Mr. Millard. All those in favor say aye. Opposed?

The motion prevails.

[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, allocation of departments, administrative reorganization, and so forth. Mr. Martin, on behalf of the committee on executive branch, has offered an amendment to add at the end of the proposal a new section i to read as follows:

[The amendment was again read by the secretary. For text, see above, page 1921.]

CHAIRMAN MILLARD: At the end of the morning session we were receiving discussions and arguments upon this amendment. The Chair will now recognize the gentleman from Bloomfield Hills, Delegate Romney.

MR. ROMNEY: Mr. Chairman and fellow delegates, I discuss this amendment briefly as one who has some background, personal background, and experience from which to draw in this field, because I speak as a member of a minority group that knows the long time harmful effect of persecution and discrimination. As a matter of fact, such persecution prevented my being born in this country and made me at 5 years of age a revolutionary refugee. Now I would like to endorse the substance of what Delegates Hannah and Judd said, and I do not want to repeat it.

The question has been raised by Delegate Higgs and others as to why we should be taking action of this character in a constitution. It seems to me that extraordinary situations require extraordinary action and we have an extraordinary case of human injustice that we are dealing with. Aristotle has said that the greatest injustice is to treat equal things unequally. Now the area of human injustice that we are dealing with is of an extraordinary and abnormal character and, consequently, it needs this sort of treatment in this constitution.

Michigan has been a leader nationally and internationally in many fields — in mass production and education and human welfare — and it is important that Michigan be a leader in eliminating racial discrimination. Negroes have now evidenced their superiority in sports, culture, science and the arts and in many other fields, and our nation and our state today is reliant on them for leadership in these and other areas. Many of our ablest citizens in this state are negroes and it is vital to the future health and wellbeing of our state that we eliminate this discrimination, that we make certain it is going to be eliminated in all fields. This is also essential to this nation's role in the world. As a matter of fact, this nation will not be able to speak and be heard by people unless we eliminate this injustice within America, and I think Michigan should take this dramatic step to help do it.

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

MR. YEAGER: Mr. Chairman, I should like to yield to Mr. Boothby for the purpose of offering an amendment.

CHAIRMAN MILLARD: Mr. Boothby is on the list. The Chair will take him in his order. Next is Mr. T. S. Brown.

The Chair wants to make this statement, that there is an amendment — a committee amendment to the amendment — that will be considered first, anyway, and the Chair has several people on the list. We have been doing this: the Chair recognizes these people that have asked for recognition when the amendment is taken up and the Chair would like to follow that order. Without objection, the Chair will do so.

MR. YEAGER: I object, Mr. Chairman.

CHAIRMAN MILLARD: Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman —

MR. KUHN: Mr. Chairman, point of order.

CHAIRMAN MILLARD: State your point.

MR. KUHN: The Chair cannot change the rules regarding demand for the floor.

CHAIRMAN MILLARD: The Chair has not changed the rules.

MR. YEAGER: Mr. Chairman, I yield to Mr. Kuhn.

CHAIRMAN MILLARD: Will you wait a minute. The



Chair allows them to yield the floor to the proponents of the amendment or to the chairman of the committee. After they get on the list the Chair has got to recognize them in their order on the list.

MR. KUHN: But you have nothing to say as to whether he can yield the floor to another member, sir.

CHAIRMAN MILLARD: The Chair already had Mr. Boothby on the list.

MR. KUHN: If you will tell me which rule you are following that you are stopping that?

CHAIRMAN MILLARD: Mr. T. S. Brown.

MR. T. S. BROWN: Is the way clear? Mr. Chairman, members of the committee, I rise, I think, to counterpoint something that has previously been said in regard to this question, in that I do not feel it has been adequately explained that we are not discussing the negro question here but are discussing the question of civil rights now. Because so many of the remarks—as a matter of fact the bulk of them—have been directed to the problem of civil rights as it is manifested in the negro class distinction, I think it is necessary to broaden the scope of our understanding of this total problem.

I object to the strictly color orientation of some of the remarks that have been made today, on 2 grounds. First of all, it focalizes a lot of "anti" feeling upon the negro problem, which is unfair to our negro brothers; secondly, as an adjunct and as a corollary of that focalization it eliminates our appreciation of some other areas of real concern. So I direct my remarks to the gentlemen like Mr. Higgs and so on, who have indicated that they are concerned primarily with this particular manifestation of the civil rights problem in this country.

We must understand that civil rights are much broader in scope than what we have been discussing today. In an ultimate sense, civil rights encompasses 2 facets of protection. It preserves the integrity of the individual within the society from either unwarranted class bias or unwarranted individual caprice. Now what is unwarranted, of course, is spelled out in our state and federal constitutions and we must recognize—and I think we do if we think about this at all intelligently—that while we are intimately and directly concerned with the negro civil rights problem here, that this is only a phase. Historically speaking, this is only a phase in the constant, never ending battle of civil rights that has always gone on in all societies in all the history of the world and probably shall always continue to rear its ugly head in all future societies.

We have been concerned in the past with civil rights in regard to religion, in regard to locality, in regard to various ethnic manifestations and now in regard to skin color. Now if you only understand this aspect of the problem, the aspect we have been discussing primarily, you only understand half of the problem, because civil rights legislation historically in the United States—and I wish that Dr. Norris were here today, because he is so wonderful in his exposition of this entire problem—civil rights legislation has been directed toward helping the minorities to compete on the same basis as the majority of the citizens, but it has also been directed at preventing the individual, regardless of color—the individual—from losing his identity in mass culture.

Now 50 years from now I guarantee you—and perhaps less than that, hopefully less than that—50 years from now in this state and in this country when our negro brothers are competing with us on an equal basis and they are not laboring under a class bias, all of us will have a greater need for civil rights protection than we realize today—and that goes for all of us. Now, when my wife refuses to join in the local coffee klatsch in our suburban neighborhood, she is becoming ostracized. Now when the coffee klatsch becomes institutionalized perhaps there will be some greater penalties that will travel toward my house from the farther end of the block than simple ostracism. Can a bearded schoolteacher teach school as well as a clean shaven schoolteacher? Can a nonGaelic attorney get a job in the present city of Detroit administration? These are all problems in civil rights. This is a private joke, the latter. These are all problems in civil rights and unless we realize that this is the greater aspect of it from the point of

view of culture, from the point of view of history, we just do not understand the present amendment; and the present amendment, I suggest, Mr. Higgs, protects you more than it does in the future Mrs. Hatcher or any other dark skinned delegates here. And unless we understand that fully and completely, then we really do not understand the problem of civil rights.

CHAIRMAN MILLARD: Judge Leibrand.

MR. LEIBRAND: Mr. Chairman, through the Chair may I direct a question to either Chairman Martin or Delegate Bentley?

CHAIRMAN MILLARD: Which one?

MR. LEIBRAND: Either one. I'll take Martin.

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

MR. LEIBRAND: Mr. Chairman and Delegate Martin, what specific rights or claimed rights does your committee consider to be embraced in the term "civil rights" as used in the proposed amendment?

MR. MARTIN: Mr. Chairman, Judge Leibrand, the answer to your question, I think, is this: this involves the rights of the citizen not to be discriminated against in a number of fields. The first of those, of course, is education, the right to get the kind of education which the individual can afford and which he wants to have, whether that might be in a profession or as a teacher or as a secretary or as a nurse, or whatever that might be. Second, it involves the right to nondiscrimination in those areas which are covered by the public nondiscrimination act which covers restaurants, motels, places of amusement, stores, public conveyances, theaters, bowling alleys, and places of public accommodation. Third, it covers employment—the right to nondiscrimination in the field of employment. Fourth, it covers nondiscrimination in the field of voting—the citizen's right to cast his vote and not to be deprived of his franchise. And fifth, it involves his right to buy housing where he can afford it and without discrimination in that field by public agencies or by those licensed by the state. It involves the question of discrimination in all of these fields, and the rights which would be protected by such a civil rights commission would be protected by those rights which are specified in the constitution.

I might answer your question more briefly by simply referring to Committee Proposal 26, which refers to the citizen's enjoyment of his civil or political rights as specified in the constitution, and the right not to be discriminated against in the exercise thereof because of race, religion, sex or national origin. I think Dr. Pollock may be able to give you a more detailed description of these rights than I have been able to, but these are the principal rights which are involved.

MR. LEIBRAND: Thank you.

CHAIRMAN MILLARD: Delegate King.

MR. KING: Mr. Chairman, fellow delegates, I would just like very briefly to talk upon this committee amendment. We have passed on first reading what I consider to be an excellent civil rights section. I think it goes without saying that these provisions will be enforced if brought to the attention of our courts. The question is: do we need an agency of the executive branch in order to secure these rights?

As has been pointed out, about 10 per cent of our population is nonwhite but, as Mr. Brown pointed out so very well, of course civil rights is the concern of all of us. It has nothing to do with color. There is no question in my mind that the distinguished negro delegates to this convention do not need the added protection of a civil rights commission, but it also goes without saying that is not the question here. Every individual is entitled to the protection of our constitution, and those people referred to by Dr. Hannah as being economically disadvantaged do need assistance in order to secure to themselves the equal protection of the laws, that we—all of us—establish and ordain, as citizens and legislators, as delegates to a constitutional convention. If our laws, the laws that we pass, are not uniformly enforced and applied, then I submit that we are the ones who are being discriminated against.

I should like to quote from General Eisenhower's remarks

in answer to Dr. Norris' question, because I think it has particular significance here: "We are citizens of a free nation" the General said, "and wherever we impinge upon or diminish the freedom of another individual, we impinge upon our own." He goes on to say, "I believe that self interest" — self interest, mind you — "demands that every single individual put himself foursquare upon this principle."

Now I believe that the protection of the rights of the individual is a prime if not the prime goal of the true conservative. I supported a strong proposal calling for review of administrative tribunal decisions, which I call to Mr. Yeager's attention. Mr. Yeager and I worked hard on that proposal and I feel that that represented the true conservative position. I proposed language which would not diminish the freedom of the individual, guaranteed under the federal constitution, in the matter of unlawful search and seizure. Again, I submit, this is the true conservative position on the rights of the individual. I now support the present committee amendment for the very same reason. This is the position of a true conservative.

CHAIRMAN MILLARD: The Chair will recognize Delegate Boothby.

MR. BOOTHBY: Mr. Chairman, there is on the secretary's desk an amendment. Would it be in order at this time for that amendment to be read?

CHAIRMAN MILLARD: Mr. Boothby, there is a committee amendment to come up first.

MR. BOOTHBY: My purpose in seeking recognition was to speak to the amendment which I placed on the secretary's desk.

CHAIRMAN MILLARD: The secretary will read.

SECRETARY CHASE: Mr. Martin, on behalf of the committee on executive branch, offers the following amendment to the pending amendment:

1. Amend the amendment, at the end of the first sentence, after "constitution.", by inserting "Nothing in this paragraph shall prevent the legislature from taking such further action as it may deem necessary at any time after the expiration of such 2 year period."

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

MR. MARTIN: Mr. Chairman, this is just a perfecting amendment to make clear what the committee purpose was. Based upon our discussion, it is intended to answer the question raised this morning as to whether the legislature had any continuing authority to act on this problem. I am sure the committee thought that it did and we wanted to make it doubly clear by adding this sentence. Therefore, I hope that the delegates will support it.

CHAIRMAN MILLARD: The question is on the committee amendment to section i. Mr. Young.

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

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

MR. YOUNG: Mr. Chairman, Mr. Martin, the way that additional sentence is written, could it be construed that further action might be the abolition of this civil rights commission?

MR. MARTIN: Well, Mr. Young, the legislature can take any action that it wants to, and the committee never had in mind that either the governor or the legislature could take action which was final and permanent and could not be changed; in other words, could take action in effect to set up a sort of constitutional provision which could not be changed.

MR. YOUNG: Well, Mr. Chairman, Mr. Martin, that is precisely the point I am concerned with. Here we are seeking to establish by constitutional provision a civil rights commission. Now if we give the legislature a free hand to take "such further action as it may deem necessary," might not that action be — especially in view of its past inaction — might not that action be to abolish the civil rights commission? Do you want to say that or authorize that?

MR. MARTIN: Well, we never intended to prevent it, Mr. Young, I am sure. At least, it was never the thought of

the committee that we were chopping off the legislature and preventing it from ever taking further action in this field. It either can or it cannot, and it was not our intention to prevent it from taking any further action.

MR. YOUNG: Well, Mr. Chairman, and ladies and gentlemen of the committee, I had intended to remain silent on this discussion, because I recognize the importance of setting up a civil rights commission even though, in my opinion, it is a minimum step; this that is being taken is a minimum step. But I certainly would be opposed to any type of amendment that would authorize in the first sentence the legislature to set up a civil rights commission and in the second sentence would provide for the governor's authority or would direct the governor, in fact, to set up such a commission thus giving such a commission constitutional status, and then in the third sentence authorize the legislature to wipe out the intention of this constitutional convention.

MR. MARTIN: Mr. Chairman, could I respond further to Mr. Young's question?

CHAIRMAN MILLARD: Do you yield to Mr. Martin, Mr. Young?

MR. KING: Mr. Chairman, I would like to ask Mr. Martin to yield to me for an answer to part of his question, because I am not in agreement with the chairman of the committee although I was a member of his committee.

MR. MARTIN: May I modify my answer, Mr. Chairman?

CHAIRMAN MILLARD: The Chair will recognize Mr. Martin.

MR. MARTIN: The principal provision provides that the legislature shall set up a civil rights commission. It provides that if it does not do it the governor shall do it. The sentence which I am proposing here would not authorize the legislature to abolish a civil rights commission, but it might authorize the legislature to modify the type of civil rights commission or to make some changes in it. It is not contemplated that whatever change is made can never be modified in any way, shape or manner.

MR. YOUNG: Mr. Chairman, do I still have the floor?

CHAIRMAN MILLARD: Yes.

MR. YOUNG: Well, with that understanding, I would suggest that Mr. Martin or his committee so change the language that it could be very clear to the legislature and to all concerned that among the powers of change and among "such further action as it may deem necessary" shall not be included the further action of abolition.

CHAIRMAN MILLARD: The Chair will recognize Delegate King.

MR. KING: Mr. Chairman, ladies and gentlemen of the committee, it is obvious to me that although the legislature can make modifications, they would in no event have the power to do anything to abolish a civil rights commission within the executive branch to secure the protection of the civil rights guaranteed by this constitution. Now that is my understanding and I would yield to Mr. Martin to be certain that that is his understanding.

MR. MARTIN: Mr. Chairman, Mr. King, if I might add to the amendment the phrase, "but this shall not authorize the abolition of such a civil rights commission," I think this would clarify the question, Mr. Chairman.

CHAIRMAN MILLARD: Is that an amendment, Mr. Martin?

MR. MARTIN: It is an addition to my amendment there.

CHAIRMAN MILLARD: To the committee amendment?

MR. MARTIN: Yes.

CHAIRMAN MILLARD: Will you please restate it so the clerks can get it.

MR. MARTIN: After the period in the last line, add "but this shall not authorize the abolition of such a civil rights commission."

CHAIRMAN MILLARD: Do you wish to —

MR. KING: Mr. Chairman, I would just ask Mr. Martin if he would think that perhaps the wording, "but nothing herein shall diminish the effect of the foregoing paraphrased," something to that effect. It is not just a question of a commission. It is a question of a commission to guarantee the rights —

CHAIRMAN MILLARD: Well, gentlemen, this is not any way to get an amendment before the committee. If you will get together and write it out, then we will present it.

The Chair will recognize Delegate Hodges.

MR. HODGES: Mr. Chairman, I have the same fears that were expressed by Delegate Young on this question. Going further, I suppose this additional amendment would help as concerns the abolition of the commission, but I think it would still allow a legislature refusing to act for 2 years to have the governor then set up a meaningful civil rights commission only to have a ripper bill introduced the next year which for all practical purposes would negate the commission while perhaps keeping it in name only. But that's all that you will accomplish by putting this abolition feature in. It seems to me that this amendment is well intentioned but I think does not materially strengthen the original amendment. In fact, it could well weaken it, especially with the experience we have had to date with this type of provision.

Now it might well be that you could put something in, that the legislature shall be able to strengthen after a 2 year period or some language of this sort, but I think the amendment as it now stands leads to many problems and unless and until new language can be put in there to actually spell out the real intent of it I would be opposed to the amendment.

CHAIRMAN MILLARD: Mr. Hodges, are you through?

MR. HODGES: Well, I would yield—may I yield to Mrs. Hatcher or did you say there were others on the list?

CHAIRMAN MILLARD: There are others on the list.

MR. HODGES: Mrs. Hatcher just made the suggestion that in the amendment on civil rights it describe what the legislature shall do in the field of civil rights and it may well be that this could be—and I am only making this suggestion to the chairman of the committee—that this could be included in this amendment. But I do think that more language is needed at this point because at this point I am not at all satisfied that we are not actually reducing or weakening the original amendment with this amendment.

CHAIRMAN MILLARD: We have so many amendments coming up here now all trying to fix this up—Mr. Secretary, can you straighten them out?

SECRETARY CHASE: Mr. Brown, Mr. T. S. Brown, has offered the following suggestion: after the word "further" in the pending amendment to the amendment insert "implementing and fostering," so that the language would then read, "Nothing in this paragraph shall prevent the legislature from taking such further implementing and fostering action as it may deem necessary at any time. . . ."

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: I have no objection to that language.

CHAIRMAN MILLARD: Does that cover all the objections now?

MR. KING: Mr. Chairman, could I ask the secretary to read my suggestion and ask if Mr. Brown would agree with it?

CHAIRMAN MILLARD: All right, will you read that suggestion?

SECRETARY CHASE: Mr. King has offered the suggestion: after the word "action," insert the words "consistent with the foregoing," so that the language would read, "Nothing in this paragraph shall prevent the legislature from taking such further implementing and fostering action consistent with the foregoing as it may deem necessary. . . ."

MR. KING: Mr. Secretary, I offer my suggestion as a substitute for Mr. Brown's. That is what I had in mind if Mr. Brown would agree.

MR. T. S. BROWN: Mr. Chairman, Mr. King, I am not sure you would acquiesce to leaving my words in; is that right?

MR. KING: No, I would not object to it but I do not think it is necessary.

MR. T. S. BROWN: May I speak on this matter?

CHAIRMAN MILLARD: Just a minute now. Mr. Brown, what do you want to do?

MR. T. S. BROWN: I would like to speak on this matter and since it has received the explicit acceptance of Mr. Martin I think, therefore, it has become part of the committee amendment. Is that not correct, sir?

MR. MARTIN: It is satisfactory, I think, with your language, Mr. Brown. Mr. King's language can be added. I think they go together. I don't think there is any objection to them.

CHAIRMAN MILLARD: Do you want them added together by the secretary?

MR. MARTIN: If Mr. King has no objection, I would suggest that the language of both phrases be added.

CHAIRMAN MILLARD: Mr. King, do you have any objection?

MR. KING: Would the secretary read the 2 of them together again.

SECRETARY CHASE: If both these suggestions are accepted, the language would then read:

Nothing in this paragraph shall prevent the legislature from taking such further implementing and fostering action consistent with the foregoing as it may deem necessary at any time after the expiration of such 2 year period.

MR. T. S. BROWN: I would agree to that, sir.

MR. KING: It seems somewhat redundant to me, but I will not object.

CHAIRMAN MILLARD: All right.

MR. YEAGER: Mr. Chairman, a parliamentary inquiry.

CHAIRMAN MILLARD: Then the amendment, as revised, will be accepted as the committee amendment?

MR. MARTIN: Yes, Mr. Chairman.

MR. YEAGER: I have a parliamentary inquiry, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Yeager.

MR. YEAGER: I should like to ask how, based on your ruling that we would only consider committee amendments, that Mr. King's and Mr. Brown's amendments, which are not committee amendments, are being considered?

CHAIRMAN MILLARD: Mr. Martin, on behalf of the committee, has accepted their suggestions, Mr. Yeager.

The Chair will rule that committee amendments have priority and revisions of and amendments thereto are in order. Mr. Wanger.

MR. WANGER: Mr. Chairman and members of the committee, I am a little bit confused by what this language as it has been perfected would actually do. Everybody says that we don't mean that the legislature cannot improve the commission or modify it and change it as it goes along, but everybody says that we don't want them to be able to abolish it or to do something which would have, I suppose, the practical effect of abolishing it. Well, if anybody is going to be sure, this has to be provided in constitutional language and I don't see how on earth you can write language which will leave discretion to make improvements and at the same time provide those improvements cannot "weaken" the commission which this original amendment seeks to establish. These words "fostering and implementing" are just as subjective as the whole subject.

CHAIRMAN MILLARD: Mr. Brown, do you want to talk on the amendment?

MR. T. S. BROWN: Yes, sir. In answer to Mr. Wanger, it is my recollection, of course, sir, that you mentioned many things in the area of constitutional law in past debates in this convention, and, as a constitutional lawyer, you have got to realize, I am sure, that there are many similar mandates in our federal and state constitutions in this area of civil rights which do not allow for weakening but only allow for strengthening and "implementing and fostering" by any subsequent statute, either of our congress or state legislature.

Now, had Mr. Martin not suggested this addition here to cure some of the ills raised by objectors who felt that this would permanently deprive the legislature of taking any action in this field—which I think on its face is a legitimate objection—I would not have felt constrained to add these additional words. But once he does, the naked words in the amendment before my suggestion and even Mr. King's suggestion, I think

would have possibly led to a weakening of the system, and this is one of those essential guarantees equivalent to our bill of rights that we want to place in that area of strengthening rather than weakening, so I felt that we must add the words "implementing and fostering."

Now I know, Mr. Wanger, you have a thesaurus on your desk and a dictionary. "Implementing" presupposes, as used in this sentence, that the governor or the legislature shall already have established such a commission and that the "implementing" action, if any, shall put additional teeth into the matter for the protection of all of us. And "fostering", I think, would provide a little bit of originality and idealism that is so often lacking in our legislation — and, indeed, in our constitution — that would enable the legislature to pass acts that were on a little higher plane of maturity in regard to this whole area of civil rights, so I think that the 2 words in their connotative senses are very, very essential for the complete understanding and fulfillment of the sense in which I believe Mr. Martin has made this additional amendment.

CHAIRMAN MILLARD: Do you want to be recognized, Mr. Wanger?

MR. WANGER: Yes, Mr. Chairman. I don't need a thesaurus or a dictionary to see the obvious fact that when you take a couple of words like "fostering and implementing" those are constitutional standards which the courts have to apply to any change which is recommended by the legislature and enacted into law.

Now, if we increase the membership of this commission to 9, some people may think that is "fostering" and some people may think that is hurting because the larger group divides authority. If we give it subpoena power in certain cases and none in others, some people may disagree. It is entirely subjective, Mr. Chairman, ladies and gentlemen of the committee. And it seems to me that this is creating a constitutional vagary where, as a practical matter, we ought to have either clearer language such as Mr. Martin for his committee had originally proposed or no language on this subject at all.

CHAIRMAN MILLARD: Mr. Brown.

MR. T. S. BROWN: Mr. Chairman, Mr. Wanger, were you present on the day we voted on the first matter to come out of committee before this convention?

MR. WANGER: No. I do not think that is pertinent.

CHAIRMAN MILLARD: Go ahead with your argument.

MR. T. S. BROWN: I think the essential part, Mr. Chairman, is that the first matter to come before this convention contained the word "encourage" in regard to education. Now, "encouraging" I think is equally subjective according to the criteria that you have set forth, Mr. Wanger, but I don't think that when we are dealing with these matters of education and civil rights and so on that we should stay away from subjective and superlative words, if necessary, because this is one of the few areas in which our constitution or any sacred document can indicate a sense of idealism and a sense of intellectual maturity and appreciation of social problems, and you cannot do this with the black and white, 2 and 2 is 4 terminology of the business world or the mechanical fields. You must get into those sociological superlative words, and I think that no one here at that time, with a few exceptions, had any objection to the word "encourage." And I do not think they should have an objection to the word "foster," because in our educational article and other sections we have used the word "foster" on many occasions without objection.

CHAIRMAN MILLARD: The question is on the revised committee amendment to the amendment. Do you wish to be recognized, Mr. King? Mr. King.

MR. KING: Mr. Chairman and fellow delegates, I would like to address a question to Mr. Brown, for the more I look at these words the more concerned I become. If Mr. Brown would care to answer, I would like to ask him if it is his understanding that in the event the legislature does not arrive at some sort of an agreement to implement this section of the constitution at the end of 2 years and then at that point the governor should do this, is it your understanding

that any action taken from that point forward by the legislature would have to be of an "implementing and fostering" nature with regard to what the governor has done, or do your words specifically relate to the body of the committee proposal?

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

MR. T. S. BROWN: Mr. Chairman and Mr. King, it is a little difficult question to answer, because I had resolved not to take part in this discussion as had Dr. Hannah; I feel rather emotional about it. However, if the additional amendment, that sentence that we are now discussing, had not been offered by Mr. Martin I certainly would not have offered any amendments myself to this degree.

MR. KING: I appreciate that.

MR. T. S. BROWN: Yes, but because of the fact that this amendment contains a latent danger, I do feel that there ought to be some safeguards built into the terminology. Now I have no pride of authorship about "fostering or implementing" because a word is a word. The only thing is, if anyone else would suggest any language at all that would be commensurate with the feelings of Mr. Martin and, I think, the majority of the delegates here that we would not want to allow the legislature to diminish anything that either they had set up or the governor had set up under this main constitutional provision, I would be happy to accept those words. If those words of mine give you any difficulty, please feel free to offer some alternate suggestions. I think the intention is what we should be concerned with here. That is the best answer that I can give you.

MR. KING: Well, Mr. Chairman and Mr. Brown, I certainly agree that the intention is what we are aiming for, but I do not think that the legislature should be prevented from doing anything about the governor's proposal which could be construed in the eyes of the court to not foster or not aid or assist the action taken by the governor. This seems to me to set up a conflict so, for that reason, I will have to change my mind and say that I cannot support the addition of the 2 words that you put in and, quite frankly, if you could assure me that the words "foster" and "implement" only refer to the main body of the committee proposal, then I would have no objection to them.

CHAIRMAN MILLARD: Do you want to answer that, Mr. Brown?

MR. T. S. BROWN: Yes, sir.

CHAIRMAN MILLARD: All right.

MR. T. S. BROWN: Mr. Chairman and Mr. King, I think in this context I can assure you — at least it is my intention — that "fostering and implementing" would be referring to the main body of the proposal in that whatever was done, either by the governor or by the legislature within the 2 years would be the matter that would be fostered and implemented. Now, on the other side of the coin, since Mr. Martin has already accepted my suggested terminology there, I would say that if for any reason we did not have these words "fostering" and "implementing" in our constitution and the legislature were to take some actions that were clearly derogatory in the area of civil rights, then it would be unconstitutional per se, by many other sections in ours and in the federal constitution. But I do not think that we will run into that danger at all. This is simply declaratory of the superlative values that we are attaching to this section.

CHAIRMAN MILLARD: Does that answer your question, Mr. King?

MR. KING: Yes, Mr. Chairman. At this time I would move to strike those 3 words, "fostering and implementing."

CHAIRMAN MILLARD: Get it on paper. The Chair is not taking anything verbal; things are getting too mixed up now. The Chair will recognize Delegate Karn.

MR. KARN: Mr. Chairman, members of the committee, along the line which Mr. King just suggested I would like to suggest that we vote on these 2 revisions, that we have a division and vote separately on Delegate Brown's suggestion of "implementing and fostering" and then vote separately on Delegate King's suggestion which is "consistent with the foregoing" and in that way we could probably get down to cases.

CHAIRMAN MILLARD: Without objection, the committee will consider these 2 suggested revisions separately. The question now is upon the term "fostering and implementing."

MR. YEAGER: Division, Mr. Chairman, please.

CHAIRMAN MILLARD: Division has been called for. Is there support?

SECRETARY CHASE: Sufficient number up. The question is first on the revision to include after "further" the words "implementing and fostering" as proposed by Mr. T. S. Brown.

CHAIRMAN MILLARD: All those in favor will vote aye. All those opposed will vote nay. Have you all voted? Mr. Austin.

MR. AUSTIN: Mr. Chairman, would you explain exactly what we are voting on? I am not clear.

CHAIRMAN MILLARD: The secretary will read.

SECRETARY CHASE: The position presently is: the committee on executive branch has offered an amendment to the amendment to insert after "constitution" the words, "Nothing in this paragraph shall prevent the legislature from taking further action as it may deem necessary at any time after the expiration of such 2 year period."

Two revisions to this language have been proposed; one by Mr. T. S. Brown to insert after the word "further" the words "implementing and fostering," and the question immediately before us now is on the insertion of those 3 words.

MR. AUSTIN: Thank you, Mr. Chairman.

CHAIRMAN MILLARD: Have you all voted? If so, the machine will be locked and the secretary will tally the vote.

SECRETARY CHASE: On the question of inserting the words "implementing and fostering," the yeas are 68; the nays are 48.

CHAIRMAN MILLARD: The revision is agreed to. The next question is on the insertion of some other words. Will the secretary read.

SECRETARY CHASE: After the word "action" insert the words "consistent with the foregoing," as proposed by Mr. King.

CHAIRMAN MILLARD: The question is on the King revision to the committee amendment. Mr. King.

MR. KING: Just very briefly, Mr. Chairman, fellow delegates, I see some danger in court construction of the words we just approved, but that is water over the dam. However, I do think that my language, "consistent with the foregoing" would also apply to those words "implementing and fostering" and for that reason I would urge the adoption of that wording, "consistent with the foregoing," so that everything in the second paragraph would apply to the first paragraph as opposed to having it apply to what a governor might or might not do.

CHAIRMAN MILLARD: The question is on the King revision. All in favor will say aye; opposed no.

The revision is agreed to and the question now is on the committee amendment as revised.

DELEGATES: Division.

CHAIRMAN MILLARD: Division is requested. Is there support?

SECRETARY CHASE: Sufficient number.

CHAIRMAN MILLARD: The question is on the committee amendment to the proposed section i as revised. Mr. Wanger.

MR. WANGER: Is it on the whole amendment or on the amendment to the amendment? I am a bit confused.

CHAIRMAN MILLARD: The amendment to the amendment.

MR. WANGER: Oh, in other words, what is on the wall towards the bottom?

CHAIRMAN MILLARD: That's right.

MR. WANGER: I see. Will the secretary read the amendment.

CHAIRMAN MILLARD: The secretary will read it.

SECRETARY CHASE: The revised amendment to the amendment is as follows:

1. Amend the amendment at the end of the first sentence, after "constitution," by inserting "Nothing in this paragraph shall prevent the legislature from taking such further implementing and fostering action consistent with the foregoing

as it may deem necessary at any time after the expiration of such 2 year period."

CHAIRMAN MILLARD: The question is upon the revised amendment to the proposed amendment, section i. A division has been asked for. 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 committee amendment as revised, the yeas are 95; the nays are 28.

CHAIRMAN MILLARD: The amendment is adopted. Are there any other amendments?

SECRETARY CHASE: Mr. Bentley and Mrs. Daisy Elliott offer the following amendment to the amendment:

1. Amend the amendment, second sentence, after "not" by inserting "pass and present to the governor during this period a bill to"; and on line 6, after "commission" by striking out "during this period"; so that the next sentence will read:

In the event the legislature does not pass and present to the governor during this period a bill to establish a civil rights commission, the governor under the provisions of this paragraph shall by executive order establish such a commission.

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

MR. BENTLEY: Mr. Chairman, a short time ago the question was raised by some of us as to what might happen during this initial 2 year period if the governor, through the use of his veto power, should prevent the legislature from enacting a bill to establish a civil rights commission merely to give himself the opportunity to do so thereafter. Therefore, it was felt there was some merit to this criticism and the intent of the pending amendment is to provide that if the legislature has during this 2 year period passed and sent to the governor's desk a bill to establish a civil rights commission, the legislature will have thereby fulfilled the intent of the first sentence of the committee amendment by requiring the establishment of the commission.

I believe that explains the intent of our suggested amendment, Mr. Chairman, in which, I am happy to say, the lady from Detroit, Mrs. Elliott, joined with me as a cosponsor. We do not believe it does anything but give the legislature the authority to establish the commission and prevent the governor by the use of the executive veto from forestalling action by the legislature during the first 2 years.

CHAIRMAN MILLARD: Does the other sponsor wish to talk?

MR. BENTLEY: I will be glad to yield to Mrs. Elliott.

MRS. DAISY ELLIOTT: Mr. Chairman, fellow delegates, Mr. Bentley and I believe that this does not change the meaning of the committee amendment. It is an added safeguard for the provisions provided here on this past vote that we just took. We believe that this is necessary to prevent a token compliance by the legislature.

CHAIRMAN MILLARD: Do you yield the floor?

MRS. DAISY ELLIOTT: Yes, I do.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, the committee is, I am sure, in agreement with this amendment. It clarifies the whole meaning of the thing and makes it clear the governor does not, cannot, prevent the legislature from acting by using his veto.

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: Mr. Chairman, I wonder if I could ask Mr. Martin a question about this amendment?

CHAIRMAN MILLARD: If Mr. Martin cares to answer.

MR. AUSTIN: Mr. Martin, I am wondering if this would not make it possible for the legislature to submit a bill which might be totally unsatisfactory to the governor and then he, let's say, would veto this bill and not have the right to set up a commission according to the specifications that he would like to have? In other words, you are saying the legislature has discharged its full responsibility once it has proposed the bill, but we still may not have a civil rights commission.

MR. MARTIN: Well, Mr. Chairman, the intent of the committee was that the legislature should have this responsibility



and that the legislature should take this action. If the legislature takes that action then the governor does not have the responsibility for presenting a proposal of his own. That was the express purpose of the committee in the way in which the provision was drafted.

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: I would be inclined to oppose this amendment because I believe that it muddies the water and may make it impossible or certainly difficult for us to get the very thing that we are proposing in the first paragraph.

CHAIRMAN MILLARD: The Chair will recognize Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman, members of the committee, I feel I must echo Delegate Austin's remarks to some extent in this regard. We are dealing in a very sensitive area, in an area in which I know I have had it expressed to me personally from some of our delegates the feeling that half a loaf is better than none and that while we would like progress in certain areas we do not want to jeopardize a little progress for the sake of seeming to want to bite off more than is acceptable to some other people; we do not want to be out of place, and we are willing to take a little beating or perhaps take a few crumbs at this juncture for the sake of getting those rather than nothing. And I know that this is a very heartfelt feeling on the part of some of our delegates and it is a very heartfelt feeling on the part of some of us who do not really want to get into this at this level and with this degree of thoroughness.

We had hoped that this matter would pass with general good will. Apparently, we are running into difficulty and I feel constrained to jump in with both feet—I hope I am not stepping on too many toes—but this particular amendment, in the words of Dr. Pollock a couple of days ago, is a vitiating type of amendment because it would be possible for your legislature to pass a bill setting up the bare bones of a civil rights commission and thus comply academically with the constitution, and the net result would be no further gain in civil rights. As a matter of fact, it probably would be a retardation of civil rights because those people who were “anti” civil rights would then say, with some degree of justification, “Well, you have a commission to which you can repair for redress of your grievances and that commission will take care of you.”

And I am reminded, when I get on that subject, of a remark that was made here earlier this morning by one of our delegates opposed to this general civil rights commission provision in that he said, “Well, you know, those people who get into trouble have several organizations that have money that are just standing by willing to help them.” This is not true, fellow delegates. This is not true at all, because those people who get into trouble with civil rights matters generally do not have money and, secondarily, those organizations which help people in civil rights areas do not have money. They are all working on a hand to mouth basis and the majority of work that is given, the legal talent that is given in these areas, is donated legal talent—and I don't think anyone will deny that—and if these people have a hollow victory in the sense that they have a muscleless civil rights commission to which their detractors say they can repair in times of emergency, then they have nothing at all. They have less than what they have now.

At this juncture I feel I must object to this amendment unless it is indicated somewhere substantially that the bill which is submitted to the governor will be a bill that is submitted to foster and implement civil rights and is otherwise submitted in a legitimate and hopeful and faithful and idealistic manner.

CHAIRMAN MILLARD: The Chair will recognize Delegate Van Dusen.

MR. VANDUSEN: Mr. Chairman and members of the committee, I heartily support the amendment which has been offered by the committee on executive branch. I think it is a necessary device by which this constitutional convention can force action in a field where action is very much needed. I do not agree, however, that the amendment before us is a vitiating amendment. I think that without the amendment

before us the provision which is proposed by the executive branch committee leaves nothing really for the legislature to do and gives the sole authority for the establishment of this commission and its powers to the governor, because any governor even slightly dissatisfied with the provisions of a bill passed by the legislature would have only to veto it to get himself the absolute authority to then establish the civil rights commission and prescribe its powers.

I respect the fears expressed by Delegate Brown but I honestly believe that what we need here in this constitution is a mandate to the legislature backed up by a provision to the effect that if the legislature does not act the governor shall, and I would not support just a mandate to the governor, which is what the provision is in the absence of this amendment. I think this amendment is vitally necessary.

CHAIRMAN MILLARD: The Chair will recognize Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman and members of the committee, first of all I would suggest to the ladies and gentlemen here that action or inaction by either the governor or the legislature is a 2 edged sword, and it is just as conceivable that nothing would be accomplished in the field of a civil rights commission if the veto power were given to the governor — any case so that he could set it up and maybe set up just as watered down a provision as they are suggesting that the legislature might do.

I would also suggest to every delegate here that he reread the committee amendment. This does not provide for the prescribing of the powers as Mr. Van Dusen has suggested, but rather, provides for the establishment of a civil rights commission. That is all the constitutional provision provides. It is the amendment that we have just adopted that provides the implementation, the fostering, and so on.

Furthermore, I would conceive, as has been suggested by the good secretary here that the houses of the legislature might likely by concurrent resolution set up a civil rights commission which would not be a bill; and in speaking to the amendment, there is one thing that has given me a little bit of a problem and that is should we say “bill” rather than “legislation?” I am not sure about this. I would be happy to have Mr. Bentley and Mrs. Elliott consider the word “legislation” rather than “bill.”

But at the outset I think we should keep in mind that this establishes a civil rights commission and that in order to make it effective insofar as legislative authority is concerned at all, you must adopt the amendment that has been suggested by Mr. Bentley and I would urge the support of every delegate here.

CHAIRMAN MILLARD: Judge Dehnke.

MR. DEHNKE: Mr. Chairman, the last 2 speakers have covered what I had in mind. Thank you.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Mr. Chairman, I regret to say that I differ with some of the speakers who have just stated their support for this amendment and I feel that this is the biggest booby trap I have seen since we have been here. I realize that it was not drafted with that intention. I am positive of that. I have spoken to one of the sponsors. But I would like to point out that this does exactly what is not desired and that the argument given in favor of it by Mr. Van Dusen is wrong.

I think we have to recognize what is the prospect now with this amendment before us. Of course, it is difficult to do it because we cannot see in front of us exactly what the language would be, but as I gather from the reading of the secretary if the legislature presents any bill that provides for a commission on civil rights, no matter what is coupled with that — no matter what is coupled with that — the governor will have substantially no choice in the matter. If he vetoes it, he loses it. There will be no law then. And if he vetoes it, he will not have the power to do it either because the proviso is, I gather, that the only time that he can provide his own civil rights commission is if the legislature has not even presented him with a bill. So, therefore, if they present him with any bill that has the words “civil rights

commission" in it, and anything to cancel out any content from that or even to go in the reverse direction, he has no choice but either to accept it or to lose his own power to provide his own civil rights commission. In effect this would strike from the original committee amendment any power whatever of the governor to set up his own civil rights commission, and I would like to give you an example. If I were on the other team, let us say, who wish to prevent this provision from becoming effectuated, I know how I would do it and I would like to explain to you how I would do it. This is exactly what I would provide, what I would ask the legislature to provide: provide a bill which sets up a civil rights commission and then put in it many provisions which are the exact negative of what is desired in civil rights. For example, it might state that rule 9 shall be stricken or some such thing as that. Now, when the governor receives such a bill, what choice has he got? He cannot accept the bill but he cannot set up his own civil rights commission either. Now, in effect, what this does—no matter how well intentioned it is—as far as I can see from the language here, what it does is, it strikes out any power of the governor to provide his own civil rights commission and, therefore, all it says is that the legislature shall within 2 years provide a civil rights commission. They can do that without the constitution and there is nothing really left.

Now the argument was given by Mr. Van Dusen that this is necessary, that this is not a vitiating amendment or a so called ripper amendment but that it is a perfecting amendment and that it is needed, and I gather that the argument is something like this: if we do not do this the governor will automatically veto any bill connected with civil rights so that he will have the power to set it up himself. Now, if that argument is good, it seems to me it can be applied to the rest of 71 as well. If I am not mistaken, in Committee Proposal 71, section b, we have a parallel provision that the legislature shall reorganize the executive branch of the government, and if they do not do that within 2 years, then the governor shall do it by executive order. Does that mean that we can anticipate that the governor is certain to veto the legislative reorganization bill? If that were so, why didn't we take care of it before? It seems to me the argument made by Mr. Van Dusen is an opportunistic argument. It was not heard before. It was not valid before. It is not valid now. And I would like to say we should look this thing over carefully. What we do now is put a little decoration in the constitution but no rights.

CHAIRMAN MILLARD: Mr. Ford.

MR. FORD: Mr. Nord has covered everything I wanted to say.

CHAIRMAN MILLARD: Delegate Sterrett.

MR. STERRETT: Mr. Chairman, members of the committee, I was on the subcommittee that reported this out to the committee on executive branch and I have been in favor of the section of this article from the very beginning, and I think with Mr. Nord's intelligence he ought to look at this a little closer because this amendment to the committee proposal I think does a job that is absolutely necessary for setting up a good civil rights commission.

I would not want to give any one person the power of mandate to tamper with the civil rights commission and that is exactly what you would do if you leave the governor's veto power in there because as soon as you leave the governor's veto power in, he could veto whatever he wanted to and then he could bollix the whole thing up and this would all be wasted.

CHAIRMAN MILLARD: Delegate Bentley.

MR. BENTLEY: Mr. Chairman, members of the committee, it seems we do have a quandary here. I would certainly admit the possibility that the legislature might pass legislation providing for a completely ineffective and ineffectual civil rights commission and thereupon sit back and say, "Well, we have done our job. The governor cannot touch it. This is it." On the other hand, I think that the opponents of this amendment, if they are honest about it, would be equally ready to admit the possibility that an arbitrary chief executive

by the use of the veto power, wishing to arrogate unto himself complete credit for establishing the commission, could use his veto power so effectively that the legislature would be estopped from doing anything during the 2 year period.

The question is how are we going to resolve this difficulty, which I think to fair minded people on both sides of this issue appears a difficult one. I submit, Mr. Chairman, the following: I think all of us will have to agree that if the legislature and the governor are going to continually be engaged in open warfare on this question of civil rights and a commission for the future that little or nothing will be done in this direction. I think it is obvious to all of us that the legislature, if by no other means than the use of the appropriating power which it inherently possesses, can cripple even the strongest civil rights commission. Now, all of us hope that will not be done. All of us hope that we will see some area of cooperation between the executive and the legislative branches of our state government in this particular field. I would hope very much that the legislature would act within the 2 years provided for in this amendment to set up an effective and meaningful civil rights commission and that the governor would cheerfully and willingly and gladly approve the same, and that some of the problems that some of us are trying to foresee today would never come to light.

I will admit, of course, that that is not possible, given the record of the past; but I also submit in earnestness to my fellow delegates—all of them—that we would hope that the legislature would be given the opportunity for at least 2 years to take the action in this field which in the past they have either been unable or unwilling to take. And I further submit, Mr. Chairman, that even if the bill which they would pass and set on the governor's desk might not in all respects be something that many of us might desire, or even the chief executive himself might desire to see approved, nevertheless, the fact that we did have a commission enacted into law would, I believe all of us would admit, be a step forward in this important field and we would hope that over the next very few years ensuing thereafter that public pressure, public opinion, and all other forces that are latent in this field might provide further action.

As I say, I would hope this would not be the case, and I would hope that the legislature and the governor could exhibit the cooperation which they perhaps have not exhibited up until now, but I implore you to vote for the passage of this amendment and to give the legislature at least 2 years to take action in this field. Then I think the people of the state will be able to judge after the passage of those 2 years as to whether or not they have done the job that I believe the intent of the majority of the delegates to this convention is that they should do. Thank you.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Battle Creek, Mr. Everett.

MR. EVERETT: Mr. Chairman and fellow delegates, I think much of the objection to this amendment comes from not reading all of the language which precedes it. This provision does not simply set up a civil rights commission. It sets up a civil rights commission to secure the protection of the civil rights guaranteed by this constitution and the legislature will not fulfill its function if it simply sets up a civil rights commission. It must empower and authorize it and require it to secure the protection of the rights set forth in the constitution. If it fails to do this it has not acted and, consequently, we are not barring the governor's right to get around something which is only a token tribute to this mandate. But what we are doing is to say that the governor cannot dictate the form that the legislation will take, and if we permit him to veto it, we do permit him to dictate it.

In fact, I do not believe that the governor belongs in this picture at all, but if we are going to leave him in we certainly cannot in good conscience say that he may dictate exactly the form that the legislation will take. If we are doing that, we are not protecting civil rights; we are going a long way towards destroying them. I think if this is to be enacted and if the governor is to have this right, then

it must be a right which recognizes the legislature's prime function: an obligation to enact legislation; and if they do it and if they do it in conformity with this mandate, then he should not have the power to change this. If he then chooses to do it, it is on his conscience.

I think that if we look at all of the language of the amendment, it cannot honestly and fairly be said that the legislature can avoid the mandate by some action which cannot carry it out.

CHAIRMAN MILLARD: Mr. Garry Brown.

MR. G. E. BROWN: I would only support that which Mr. Everett has said. I think that he has analyzed it very well. I think maybe previous speakers have not. Let us analyze it this way: first of all, the legislature must establish a civil rights commission or it has not fulfilled its duty under this and the governor may do so. If it establishes a civil rights commission and then by accompanying legislation vitiates the very thing that it is doing, it, of course, is not complying with its constitutional mandate of establishing a civil rights commission to give protection to the civil rights guaranteed by the constitution and, therefore, to the extent that it violated this mandate, it would be held unconstitutional by the judiciary, and legislation in accordance with it would be, of course, confirmed by the judiciary.

I still am a little bit concerned about the specific language involved where we say, "... pass and present to the governor during this period a bill to establish. . . ." I am wondering if Mr. Bentley would agree that if we are going to use the word "bill" that we say, "... pass and present to the governor during this period a bill establishing a civil rights commission . . ." rather than a "bill to establish;" if this would make it more certain that this bill will establish a civil rights commission in order to have it be subject to the 2 year period and have the governor have the right to appoint or to establish a civil rights commission if the legislature does not so act.

MR. BENTLEY: Mr. Chairman, if the gentleman would yield, that is exactly what the amendment, if inserted, does. It says it does establish a civil rights commission.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Well, I just wondered whether Mr. Brown was satisfied with that explanation. The word "establishing" does not change the meaning of the amendment. A "bill to establish" is a "bill establishing." I have no objection to the language, Mr. Chairman.

MR. G. E. BROWN: Thank you.

CHAIRMAN MILLARD: The question is on the Bentley amendment. All in favor will say aye —

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support?

SECRETARY CHASE: Sufficient number.

CHAIRMAN MILLARD: The question is on the Bentley 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 Mr. Bentley and Mrs. Elliott, the yeas are 81; the nays are 35.

CHAIRMAN MILLARD: The amendment is adopted. The secretary will read.

SECRETARY CHASE: Mr. Boothby offers the following amendment to the proposed section i:

1. Amend the amendment, first sentence, after "branch" by striking out the balance of the section and inserting a period and "It shall be the responsibility of this commission to study, recommend and promote methods to implement recognition and enforcement of those rights set forth in this constitution. At no time shall a majority of such commission be members of the same political party."

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

MR. BOOTHBY: Mr. Chairman and ladies and gentlemen of the committee, let me preface my remarks concerning this amendment by saying that I wholeheartedly agree with

the remarks that Delegate Brown from Garden City made indicating that he feels that this is not just a question of birth or of color because, as he correctly analyzed, this particular question goes to the heart of the rights of every single person within this room. Some of us may feel more sensitive about it than others, because some of us may have a more definite and certain area of concern, but let me reassure the members of this committee that some of us are part of certain minority groups not only because of birth but because of choice, and we are all vitally concerned with this particular area, as Delegate Romney has indicated.

I feel that it is necessary to review the amendment which the committee has proposed and to look at it very carefully, and in analyzing it to attempt to prove the worth of the amendment which I have proposed here. I think that maybe the wording which the committee on executive branch came up with was a bit unfortunate, the choice of language, and I think maybe this is part of my concern more than the intentions which they have expressed or not expressed. In the wording of the committee amendment, you will find these words:

... the legislature shall establish a civil rights commission within the executive branch to secure the protection of the civil rights guaranteed by this constitution.

You note they use these words, "to secure the protection of the civil rights guaranteed by this constitution."

Now, as soon as I read this committee amendment there were some words in here which flashed back to me, some thoughts about a certain document that I read back in history class and that was the Declaration of Independence. The Declaration of Independence uses almost the same identical words, although they apply it to a little different concept. In the Declaration of Independence it says that to secure these rights governments are instituted among men; in other words, not a commission but the whole of government, which I take to include in our system of government the executive, the legislative, and the judicial. Yes, that to secure these rights governments, not commissions, are instituted among men.

Now it would seem to me that the adoption of this wording infers inadequacy of our courts, our legislature and our executive. In fact, it infers inadequacy of our whole system of government. Sometimes it is up to the courts to secure the protection of these rights which we call civil rights. Sometimes it is up to the executive to secure these rights. Sometimes it is up to the legislative. Now to give you an illustration of what the courts do to secure it, we have a right to counsel and it is for the court to determine that we have a right to counsel in a criminal case.

Now we are saying in the committee's amendment — it would seem to me by the way it is worded that the responsibility, the total responsibility, for securing the rights of the people shall be exclusively placed in the hands of the executive branch of government and I do not believe this is what was actually intended by the committee on executive branch. I do not believe that they ever intended to transfer the total responsibility of securing the rights which were embodied in the constitution in one branch of the government, the executive branch, and I feel that it is bad constitutional drafting. I would not be willing to delegate only to the executive branch the responsibility or even infer that they have the responsibility and the sole responsibility of protecting the rights afforded me in the constitution.

Now I believe that the amendment which I have suggested here does set at least a minimum standard of responsibility for the commission. And this minimum standard which I have suggested looks to the implementing, the recognition and enforcement of those rights set out in the constitution. And this is properly within the field of the executive, so it would be properly a matter which the executive branch of government should look toward.

I think when we have placed into our declaration of rights certain rights and we give to our courts certain responsibilities and to our legislative branch of government certain responsibilities and to our executive branch certain responsibilities that there is maybe still something lacking



in this area, and I think that area is the promotion of the recognition and the promotion of the enforcement of these rights. And I do feel that this amendment does fill that very definite vacuum which is still present. I noted that when Delegate Downs made his remarks he indicated that he felt that there was a very definite need for a civil rights commission to implement what was done in the rights, suffrage and elections section. I feel that this amendment will definitely implement what was done in that particular section.

Delegate Danhof indicated that he felt the question before us was as to the matter of enlightenment and education. You can see that what we have provided for here is an arm of the government, the executive branch of government, and a specific commission acting under the executive branch to actually sell, to educate, and to enlighten the people concerning the rights of the people, concerning all the people of the state. This provision would be used to promote methods to implement recognition and enforcement of those rights provided by the constitution.

Now there is one further thought which is also included in this amendment and that is in its last sentence. That last sentence provides that the commission which would be established would at no time be constituted of a majority from one particular party. I do not believe that the question of civil rights is a question on which any political party should have any particular area of more concern than another political party. I think both political parties should have definite concern for this question, and I would not want the matter of civil rights to ever become a political football between the 2 major parties. I believe this would be wrong. It would inject into the very delicate question of civil rights something that should not be there. So I would suggest that this would be a very proper addition to the suggestions which have been made.

I believe that the total effect of this amendment sets out at least the minimum area of concern of the commission, gives the commission a sense of direction. I do not believe that the recommendation which has been suggested by the executive branch committee gives any sense of direction to the legislative branch of government in the setting up of the commission nor do I believe that it gives them any kind of a general minimum standard to meet. I would, therefore, urge the adoption of this amendment when it comes up for a vote.

CHAIRMAN MILLARD: Delegate Yeager.

MR. YEAGER: Mr. Chairman, ladies and gentlemen of the committee, this morning Dr. Hannah and others gave a very eloquent and forceful presentation in which they outlined the problems that we face in this area. He expressed very well, I think, the scope of the problem and no one denies that this problem exists.

If you will recall my remarks of this morning, which I obviously will not repeat now, my objection has been to the loose wording of this committee amendment and to the undefined scope allowed by the amendment. Now the Boothby amendment takes care of the objections that I have. It defines the scope of such a commission. It puts it on a bipartisan basis. Its tone is not one of force but of persuasion and education, which I believe is the only sound, meaningful, and permanent way that we are going to meet this problem. I therefore strongly support the Boothby amendment and ask for your vote in this regard. Thank you.

CHAIRMAN MILLARD: Delegate Hodges.

MR. HODGES: Mr. Chairman, I rise to oppose the Boothby amendment. It seems to me that while Mr. Boothby is talking about this specific language setting minimums, the actual purpose and intent is to set maximums on the power of this agency.

Now I submit that the remarks of Delegate Boothby could have well been directed against all administrative agencies. It was actually a plea against administrative law. We know that this is a field of expertise, a field that we do need a spotlight on, and it is one that is well and appropriately in the executive branch of government within an administrative agency, and it might well have quasi judicial powers.

Now as for the second part of it. The last line I don't

have any particular objection to, but I think that it probably is one that would be difficult to enforce because we all realize that many people in this field—and many people that would be serving on a commission of this sort—would be clergymen of many faiths as well as others. And it might well be that one would not be quite sure of their political identification. For that reason I think that it might well be impractical—that is, the last line. I think that for any governor who is making these appointments, it would be prudent of him to select people who are well qualified and experienced in the field and I am sure that he would draw on these many professions and concerns. For that reason I think the second part, while not too objectionable, is impractical; and certainly the first part of it, the very heart of it, rips out the total purpose of the overall amendment. I would, therefore, urge all the delegates to oppose this amendment.

CHAIRMAN MILLARD: Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman, fellow delegates, I am in opposition to the Boothby amendment because it seems to run contrary to the general tenor of the motivation of everything that we have been doing here today. You realize, of course, fellow delegates, that if we really wanted to establish a civil rights commission that would—in my words—foster and implement what some of us feel ought to be done in this area, we here collectively and in some cases individually represent probably the greatest degree of education and awareness in this particular field and far more, I think, than the legislature as it has been constituted in the past and probably will be constituted in the future, because of the diverse nature of our backgrounds and such. Now if we really wanted to do that we could today—perhaps not today but within a very reasonable time—set forth specifically a topnotch, first class, idealistic, futuristic minded civil rights commission. We could do that. There is nothing to prevent us from so doing. I would like to see us do it. However, I realize at this juncture it is perhaps a bit impolitic to be discussing things in those terms.

Now if we cannot do it, then what we have had up to the Boothby amendment has been a bland statement of one sort or another that a civil rights commission should be established. Then we have had the tangential argument as to whether or not the governor or the legislature should establish it, and what we have discussed prior to the Boothby amendment would be simply this: that the legislature could pass as good or bad an act as they would like providing they call it a civil rights commission. Then, in the amendment in which I took part initially, they may implement this by direct implementing legislation to provide teeth to whatever the commission should come up with. Now the whole tenor of that is not, in my estimation, bad. The whole tenor of that is good.

If we were to accede to the Boothby amendment we would be deliberately—instead of encouraging and placing a paternal push on the back of the civil rights commissioners, we would be putting a lid on their aspirations by the very terminology that is suggested here in the Boothby amendment in that it would curtail and delineate the limits of their activity; instead of providing a floor, it would provide a ceiling which would, ab initio, I think, nullify the real effect of what we are trying to do.

In addition to that, speaking in reference to the last sentence, I think historically in government it is traditional to have a bipartisan board in areas where you have real controversy. In other words: shall we have a guaranteed annual wage? Shall we have 3 branches of government or 4 branches or something of that nature? I do not see how a bipartisan commission designed according to this terminology with a built in emasculating clause which would prevent its action, can actually function in this area. It is not a question of whether we will or won't—and if it is a question of whether we will or won't, then I suggest that we take some stand in this convention, that we do say to ourselves that we will or we won't and that we won't continue in any area of sham or hypocrisy by saying, "Yes, we won't but we will make it look as though we will." Now a

bipartisan board, I think, in the area of civil rights would have that net effect and I would therefore oppose it.

I recall—not too many years ago, I was working for one of the finest lawyers in the state, as a matter of fact in the country, who achieved some notoriety; and I will not mention his name because he was fond of tackling large corporations—and at the time we were going to trial against one of the monoliths in the corporate field, one of the partners in the organization got a case of cold feet and he didn't know whether or not we should proceed because the matter was very grave and most likely adverse to us. And the attorney of whom I am most proud, the senior partner, turned to his other partner and said, "Coward, stay home. I will go and fight." Now in this particular matter, I think we must all at this point begin to say to ourselves, we should stay home or we should go and fight and we should not set up the kind of a board which is going to sit there at odds and not know whether they should stay home or go and fight. For those reasons I oppose the Boothby amendment.

CHAIRMAN MILLARD: Delegate Cudlip.

MR. CUDLIP: Mr. Chairman, members of the committee, I am going to vote for the Boothby amendment. This morning I expressed some concern, a personal concern, about the executive committee amendment. It was its tracklessness. One of the most awesome responsibilities of this delegation is to handle these civil rights properly. They are rights of all of us. Like I said this morning, we all belong to minorities. Now I am not content at all with dealing with this sacred and important problem in the manner suggested prior to the amendment. At least the Boothby amendment gives some direction to this effort.

It has been conceded on this floor that this other amendment is just a hollow shell to be filled perhaps when, as, and if the legislature chooses to act, and, if not, by the chief executive. This is filling the shell to some extent and properly filling it, and there is nothing to prevent the legislature adding to that and there is nothing to prevent the legislature under the executive committee amendment from doing something or nothing. But at least let us fill this phial with something. I am for this amendment. I think it has some meaning, some orientation. I think the other is a lot of balderdash. Thank you, Mr. Chairman.

CHAIRMAN MILLARD: Delegate Habermehl.

MR. HABERMEHL: Mr. Chairman, fellow delegates, I do not see the argument here that the language used necessarily puts any lid on the powers of the commission. I think it tends to define their duties and, certainly, the language is broad enough by the use of the word "implementation" to empower the committee to do exactly what it is set up to do. I do feel, however, that there are 2 concepts clearly expressed in this amendment and I would ask that the question be divided so that a separate vote may be taken on the last sentence and a separate vote on the balance of the amendment.

CHAIRMAN MILLARD: Mr. Habermehl, this amendment is to strike out and insert and, therefore, not divisible.

Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, as I explained before, I do not believe that a quasi judicial, quasi legislative administrative board is the proper means or method of enforcing this kind of a law or most laws, for that matter. Such organizations, of course, are necessary in the field of corporations, public utilities, and so forth, but I do not think they are properly used here. However, as provided in this Boothby amendment, I feel that the provision of this board to gather facts by some objective method in such a way that the legislature may have before it without question actual facts and not just statements that people make may be worth while and may be worth putting into the constitution. I, therefore, will support the Boothby amendment. Thank you.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, let us be honest about this amendment. This amendment is designed to cut the heart out of the committee amendment. When the words "to

secure the protection of the civil rights guaranteed by this constitution" are stricken out or placed under a simple provision that the commission should study, recommend and promote, this reduces the committee amendment to zero. And let us not fool ourselves about its effect; the effect and the purpose of it is to destroy the committee amendment and I cannot say that any stronger than that. I don't care anything about the last sentence; the last sentence would be entirely acceptable, I think, probably, to the committee and to others here in the convention. But we have to make up our minds right now, or will when we vote on this, whether we believe that something should be done in this field of civil rights or whether we don't feel that something should be done, and that is the line on which this question divides.

There cannot be any question but what if this amendment were approved, the convention would have decided to disregard the entire problem of civil rights other than to make a pious statement in the section on civil rights that there ought to be such a thing as civil rights. Now if you believe that there should be and that some effort should be made to recognize them, then you will support the committee amendment and you certainly will not vote for the Boothby amendment.

CHAIRMAN MILLARD: The Chair will recognize the lady from Grand Rapids, Mrs. Judd.

MRS. JUDD: Just a comment or 2 on some of the arguments. Mr. Cudlip says that this amendment gives the matter some direction. I agree with him. The direction is backwards. For some 25 years there have been committees and committees and committees and meetings and meetings and surveys in volumes on the subject as far as education goes. There is no use going back into that.

And as for Mr. Brown, I agree with him about the yes and no business. He just isn't old enough to remember the old phrase, "yes, we ain't got no bananas," and that is about what this amendment would be.

I think this convention cannot hide behind the veil of the Boothby amendment. I am sure that we are already found out by the boys [press corps] who sit in the balcony behind me.

CHAIRMAN MILLARD: Delegate Everett.

MR. EVERETT: Mr. Chairman, I originally had asked for recognition to make the very request which Mr. Habermehl made, and I recognize that the Chair's ruling is correct, that we cannot divide this question. Would it be proper to submit an amendment to strike the last sentence from the amendment?

CHAIRMAN MILLARD: That is proper.

MR. EVERETT: I would like to offer that amendment then.

CHAIRMAN MILLARD: Have you got it in writing?

MR. EVERETT: It is very simple. Just strike the last sentence.

CHAIRMAN MILLARD: Can you handle that, Mr. Secretary?

SECRETARY CHASE: Mr. Everett offers the following amendment to the Boothby amendment:

1. Amend the amendment, after "constitution," by striking out all of the last sentence which reads, "At no time shall a majority of such commission be members of the same political party."

CHAIRMAN MILLARD: The question is on the amendment to the amendment. Mr. Everett.

MR. EVERETT: I offer that, Mr. Chairman, because I join in Mrs. Judd's sentiments and oppose the Boothby amendment. However, I do think that the last sentence is valid and ought to be submitted separately and would like to speak on it if this amendment is adopted.

CHAIRMAN MILLARD: The question is on the amendment. Do you all know what the amendment is? The secretary will read it.

SECRETARY CHASE: Mr. Everett's amendment to Mr. Boothby's amendment is:

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

CHAIRMAN MILLARD: Do you wish to be recognized? Mr. Wanger.

MR. WANGER: Just to ask a question of the Chair, sir. Is it necessary from a parliamentary standpoint to strike out something which, should it fail as part of a whole, you would like to offer as a separate part later on? I think that was the mover's intention here, from what he said, but I question whether it is really necessary from a parliamentary point of view.

CHAIRMAN MILLARD: The question is before us, Mr. Wanger. We have got to dispose of it.

Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I just rise to say that, as Mr. Martin has already indicated, the committee sees no objection to the second sentence of the Boothby amendment. We wish to vote on it separately. That is why we urge a favorable vote on the Everett amendment to separate this unobjectionable sentence from the rest of the amendment which, of course, I hope will be voted down when the time comes.

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

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support?

SECRETARY CHASE: Sufficient number.

CHAIRMAN MILLARD: The question is on the Everett amendment to the Boothby amendment. All those in favor will vote aye. Those opposed will vote nay.

MR. DOWNS: Point of information.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Will you ask the secretary to read the Everett amendment again, please?

CHAIRMAN MILLARD: The secretary will read the Everett amendment.

MR. DOWNS: Thank you.

CHAIRMAN MILLARD: The committee will be in order.

SECRETARY CHASE: The amendment offered by Mr. Everett to the amendment of Mr. Boothby is:

[The amendment was again read by the secretary. For text, see above, page 1943.]

CHAIRMAN MILLARD: Have you all voted? Mr. Gover.

MR. GOVER: Mr. Chairman, explain the amendment again. Which way is which?

SECRETARY CHASE: If the delegates wish to strike out the language, "At no time shall a majority of such commission be members of the same political party," they will vote yes. If they want to leave the language in, they will vote no.

CHAIRMAN MILLARD: 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. Everett to strike out the last sentence of the Boothby amendment, the yeas are 72; the nays are 41.

CHAIRMAN MILLARD: The amendment is adopted.

SECRETARY CHASE: Mr. Hodges offers the following amendment to the Boothby amendment:

1. Amend the amendment, after "recommend and" by striking out "promote methods to implement recognition and enforcement of those" and inserting "enforce those"; so that the language will read, "It shall be the responsibility of this commission to study, recommend and enforce those rights set forth in this constitution."

CHAIRMAN MILLARD: The Chair recognizes Mr. Hodges.

MR. HODGES: Mr. Chairman, the only reason this was offered is so many people were so worried about the specifics on this, on not having anything, and they wanted teeth and that this would do it, but at the request of the sponsors of the main motion I will at this time withdraw the amendment.

CHAIRMAN MILLARD: Without objection, the amendment of Mr. Hodges is withdrawn. Are there any further amendments? The Chair has 2 names here that want to speak. Mr. Garvin, do you want to speak on the Boothby amendment?

MR. GARVIN: Yes, on the Boothby amendment. I think, Mr. Chairman, that Mrs. Judd just about covered it. I just wanted to mention that it seems the purpose here really is to get rid of this amendment through the back door, meaning by that, the Boothby amendment does exactly that. Then all of the delegates, the 144 delegates, brag about a civil rights provision under the executive branch. The question is, do you want civil rights or do you not? And that amendment says no.

In reference to Mr. Cudlip's statement about implementing, this says nothing but "recommend and promote methods to implement recognition and enforcement of those rights set forth in this constitution." It does nothing at all that the various schools, textbooks and other publications haven't already done. It is there in the event anybody wants to read it. All that does is say some commission is going to put out the very volume that you should read, but it does nothing as far as civil rights is concerned. If you want civil rights, all right. If you don't want them, well, that's another matter. But let's not go in the back door to defeat them.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, just very briefly: I am opposed to this amendment.

CHAIRMAN MILLARD: Mr. Boothby.

MR. BOOTHBY: Mr. Chairman, just a brief statement that applies to a couple of statements that were made. The question was just directed as to whether we wanted civil rights or not. It was stated that those people who favored this amendment did not want civil rights. I can only speak for myself. I can assure the members of this committee that I have as much sympathy for the people that want civil rights as any person here. I am a member of a minority group and I think almost every one of us is a member of certain minority groups. The question is not whether we want civil rights or not. In fact when the committee report from rights, suffrage and elections came before this group, I voted in favor of that, and I understand it is considered as being the strongest civil rights package of any constitution in the states. I am much in favor of what came out in that section. I am only an individual and many times I am dissenting from the multitude. Many times I find myself standing alone. And this is what I understand civil rights to be: to protect that person who wants to stand alone.

My only question is the method to sell civil rights in the various provisions that we have in the constitution regarding civil rights to the people of this state so that it will be more than empty words, so that it will be recognized and understood and honored and revered, and practiced by the people of this state. And I think that is the purpose of this amendment: to see that we have a program throughout this state to sell the various provisions of civil rights to the people of the state and see that it is practiced not only outwardly as some do but inwardly in the heart. This is not a vote on civil rights; this is only a question on what the minimum floor shall be for a commission which will be set up within the executive branch of government.

Mr. Martin says that this will cut the heart out of the committee amendment. Frankly, I have not found the heart which is expressed to have been in that amendment. I cannot find a heart anywhere. I believe that this does set a floor. It does not set a ceiling. I cannot find a floor in the executive branch committee recommendation. I find a floor here. I would like to ask Mr. Martin what is the floor in their committee recommendation. I would urge the adoption of this amendment.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, in reply to the remarks just made by my good friend from Niles, I would say that I have never impugned or cast aspersion on the motives of anybody who offered an amendment here and I am not going to start now. I believe the gentleman is sincere when he says he supports civil rights, as I do, and as I am sure we all do here. We may differ on the means to reach the objectives even if we have the same objectives. I merely say that there can be honest differences of opinion and I do not believe the gentleman's amendment would accomplish the objectives which

he hopes for. I believe the amendment from the committee would do so. Therefore, I urge that the committee be supported with a no vote on the Boothby amendment.

CHAIRMAN MILLARD: The question is on the Boothby amendment. All those in favor will say aye.

MR. YEAGER: Division, Mr. Chairman.

CHAIRMAN MILLARD: Division has been called for. Is there support? A sufficient number. The question is on the Boothby amendment. 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 amendment offered by Mr. Boothby, the yeas are 36; the nays are 78.

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

SECRETARY CHASE: Mr. Higgs offers the following amendment to the section proposed by the committee:

1. Amend the amendment, first sentence, after "branch" by inserting "without judicial or quasi judicial power"; so that the language will read:

Within 2 years after the adoption of this constitution, the legislature shall establish a civil rights commission within the executive branch without judicial or quasi judicial power to secure the protection of the civil rights guaranteed by this constitution.

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

MR. HIGGS: Mr. Chairman and members of the committee, inasmuch as we are making this provision in the constitution, I feel that I must take a different approach than I would with regard to legislation.

Now I hope you realize that if you do not accept this amendment you are laying the groundwork for the creation of a court. We have adopted a principle of elective judges, and the members of this commission will likely be appointive people. Without this restriction that would be offered by my amendment we will have appointive members of the commission sitting possibly in judgment upon the rights of people. I think this is inconsistent with the position we have taken in establishing an elective judiciary.

You must bear in mind that in certain of the other commissions in our state and elsewhere that have such broad grants of power the commission may be the investigating agency, it may be the prosecutor, judge, jury and, in short, have larger control over the lives of our people, both complainants and defendants, than the courts themselves. Consequently, if this truly is to be set up within the executive branch, then I believe that in order to preserve what is left of the separation of powers, we should provide, also, that this commission shall be without judicial or quasi judicial power.

CHAIRMAN MILLARD: The Chair will recognize Mr. Everett.

MR. EVERETT: Mr. Chairman and fellow delegates, I think we will have to recognize that while the language is different, the effect of this amendment is exactly the same as Mr. Boothby's, for it would simply mean that any body set up could not conduct hearings, summon witnesses, issue orders, or do any more than recommend, just as Mr. Boothby's amendment suggested that they should do. This would go a little bit further because it would not only set a floor but it would also set a ceiling. Now many of us have strong feelings against the abuse of administrative powers, but if we are going to have such a commission as this and if it is going to function, then it is going to have to be given the right to function, and the protection of the citizen is going to have to come through the device which we have already created to permit a proper judicial review of the acts of this agency so that the rights of the individuals who appear before them will not be infringed. I would oppose the amendment and feel that we should vote it down.

CHAIRMAN MILLARD: Mr. Hodges.

MR. HODGES: Mr. Chairman, I think Mr. Everett put his finger on it that this is merely a more forthright attempt than the Boothby amendment was.

If you are going to be against administrative agencies, I would submit that there should be a blanket prohibition against all of the administrative agencies in the state of Michigan. But here we are trying to pick and choose one and hamstring it much beyond what would be effective for it to be meaningful. I think that we all realize that for an administrative agency to be able to be effective at all it has to have some enforcement power; to negate it would be a meaningless gesture and would be hypocritical. For that reason I am opposed to the Higgs amendment.

CHAIRMAN MILLARD: Mr. Tubbs.

MR. TUBBS: I think my speech has been made, Mr. Chairman. I just wanted to remind my friend, Mr. Higgs, that he is 50 years too late.

CHAIRMAN MILLARD: T. S. Brown.

MR. T. S. BROWN: Mr. Chairman and fellow delegates, I am reminded of—perhaps some of you have visited the island of Formosa and have gone to the local marketplace in the village and have seen the chickens that they have there for sale for consumption by the local populace. And these are chickens—anatomically and structurally I suppose we would recognize them as such—but they are awfully wrinkled and old and skinny, scrawny, and they smell, and they are dragged around the streets by their heads when they are still alive, and finally after they are killed and their feathers are taken away, they are hung up in the marketplace to dry for several days before they are offered for sale; and then the natives take them and they boil them, and they make chicken soup, and they add seaweed and celery and such, and they not only boil them to make one pot of soup but they boil them and boil them and boil them for days on end in different pots of soup, until finally the last vestige and even the smell of chicken is gone. Then they take the meat that remains and carve it up and sell it for meat. Now I suggest that what we have here is a chicken in name only and that Mr. Higgs' amendment in regard to civil rights is actually a Formosan chicken. (laughter and applause)

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

MR. MARTIN: I only want to add that the committee is certainly opposed to this amendment, and Mr. Everett has clearly stated the case with regard to it.

CHAIRMAN MILLARD: The question is on the Higgs amendment.

DELEGATES: Division.

CHAIRMAN MILLARD: Division is called for. Is there support? There is a sufficient number up. Mr. Higgs.

MR. HIGGS: Mr. Chairman, I would like to respond not to Delegate Brown (laughter) but to Delegate Everett. It is not the purpose to prevent the agency from holding hearings and finding facts in the same manner in which, as I understand it, the federal civil rights commission acts. It is my understanding that they do not initiate complaints, hold trials, and make judicial determinations. I would just like to negate that particular concept because there are a number of worthwhile areas for the commission to act in. And second, as far as administrative review is concerned, the committee amendment certainly would not do anything more than give you the right to find out whether or not the court was clearly in error—I said "court;" I mean the commission. The burden of proof has shifted. I urge the serious consideration of this.

CHAIRMAN MILLARD: The question is on the Higgs amendment. A division has been called for and there were enough up. All in favor will vote aye. All those opposed will vote nay. The question is on the Higgs amendment. 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. Higgs, the yeas are 25; the nays are 88.

CHAIRMAN MILLARD: The amendment is not adopted.

SECRETARY CHASE: Mr. Higgs offers the following amendment to the amendment:

1. Amend the amendment, at the end of the first sentence, after "constitution" by inserting "providing that any grant of

judicial or quasi judicial power to such civil rights commission shall include a right to a trial de novo by any party".

CHAIRMAN MILLARD: The Chair recognizes the proponent, Mr. Higgs.

MR. HIGGS: Mr. Chairman and delegates, I will not speak at length on this, but if you are going to grant to this commission the power of a court to make decisions involving the rights of people, then I seriously and strongly believe that any person who is going to have such rights determined in a judicial or quasi judicial proceeding should have a complete right to have the evidence tested in a circuit court of the state in a trial de novo where he can be protected by the rules of evidence with regard to admissibility.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, this is a question which the legislature should determine. Whether it should be a trial de novo or an appeal is clearly a question that ought to be left to the legislature and has no place in this particular provision. We have tried to strip it down and keep it to the bare essentials, but there is no point in our trying to decide this particular question when the legislature can be given that authority and ought to have the opportunity to make that decision. I would oppose the amendment.

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

The amendment is not adopted. The secretary will read.

SECRETARY CHASE: Miss Donnelly offers the following amendment to the amendment:

1. Amend the amendment at the end thereof, after "commission", by inserting "This provision shall not be construed to enable the denial to any citizen of any direct and immediate legal remedy in the courts of this state."

CHAIRMAN MILLARD: The Chair recognizes the proponent of this amendment, Miss Donnelly.

MISS DONNELLY: This amendment has been offered for this reason: that throughout the argument we have gone in so many directions that I think everybody has become most confused. It is in here to give a basic right to any citizen to go to the courts of this state to try his own case. Any commission established could so set up their requirements that if they were drafted too loosely without basic thought behind them, I am afraid, the state would force an individual to go through such a commission before his rights could be firmly established. They might exhaust the individual trying to secure his rights by saying that he must first exhaust their legal remedy. I think it is most vital that any person who feels that he has been wronged and who feels he has a cause of action be entitled to have his case tried in a court of this state immediately if he is ready to go, that we would always have this basic right of trial preserved to every citizen. On this I would like to yield to Mr. Martin.

CHAIRMAN MILLARD: The Chair recognizes Mr. Martin.

MR. MARTIN: Well, Mr. Chairman and Miss Donnelly, I want to be sure I understand the amendment. I thought that we had no question about it. I just would like to address a question or 2, Mr. Chairman, to Miss Donnelly.

Miss Donnelly, as I understand this amendment, this does not set up new rights. This is simply recognizing the existing rights of the citizen and in effect saying that this committee provision does not do away with those rights. Now am I correct about that?

MISS DONNELLY: Absolutely. This is to indicate that these rights are to be preserved. These are existing rights and they are to be considered in this, that this provision will not vitiate these rights.

MR. MARTIN: Well, we do not intend that the provision shall vitiate the rights to present matters to the courts as they now can be presented, and if that is the meaning of it the committee does not object to the amendment.

MISS DONNELLY: I think the amendment should thus be very clear on its face and I would like to move its adoption.

CHAIRMAN MILLARD: The question is on the Donnelly amendment. Mr. Higgs.

MR. HIGGS: I would like to ask a question of Delegate Donnelly, if she cares to answer.

CHAIRMAN MILLARD: Miss Donnelly, do you care to answer?

MISS DONNELLY: If necessary.

MR. HIGGS: Does she care to answer?

CHAIRMAN MILLARD: Yes.

MR. HIGGS: Oh. Will this provision give any party in a proceeding before the civil rights commission the right to be tried and convicted, if that be the decision upon it, and have that conviction reviewed in a court? Does it give him such a right? Or is that question confusing?

MISS DONNELLY: If I understood your question, I think the language said "direct and immediate legal remedy in the courts of this state." Now if you know what that language means, as a member of the bar, Mr. Higgs, I don't think you need any further help.

MR. HIGGS: Well, I want to be sure that the other delegates know, too. The question that I am concerned with is if a party were convicted on hearsay evidence, for instance, whether the courts would have any power to review that conviction.

CHAIRMAN MILLARD: Do you care to answer, Miss Donnelly? Mr. Higgs, she did not hear the question. (laughter) It appears she does not care to answer. Mr. Martin.

MR. MARTIN: Mr. Chairman, I thought that perhaps Mr. Higgs' question was directed to the idea of whether this guaranteed everybody a trial de novo. It does not guarantee them all a trial de novo except as they may now have such rights. It does not expand their rights. It simply provides that this committee provision will not abrogate those rights to have a court determination.

CHAIRMAN MILLARD: Mr. Ford.

MR. FORD: I would like to ask Miss Donnelly a question through the Chair.

CHAIRMAN MILLARD: Miss Donnelly, do you want to hear the question first?

MISS DONNELLY: Yes.

MR. FORD: Is it fair to say that the intention here, that this language should mean that the rights conferred by this section would be in addition to other rights under the law and not in derogation of any other right? Is that what you intend to get at?

CHAIRMAN MILLARD: Will you answer in the mike so the reporter can get it, please.

MR. FORD: There is language in substance, Miss Donnelly, that is sometimes used, saying—in this case it might say, for example, that the provisions of this section are to be considered as rights in addition to other rights under the law and not in derogation of any other right under the law. Is that the intention of your language?

MISS DONNELLY: Well, maybe I can answer you more directly, because the way you phrase it I am confused. The intent of this is that the commission shall not derogate the rights of legal remedy any citizen wants, that the right that a human has to have his case go to court, if he wants to take his case to court he should be able to take it to court immediately, and it means that if he wants his case tried immediately he should be able to go to court and get damages if that is what the court can award him, that he can have this taken care of. Whatever rights we have under this constitution are intended to be included in this and should also be able to be taken care of directly by any court that a person desires to take it to. They have this legal right and it should not be removed from them. This is to protect the citizen on any right. It could not be construed to take these rights away. Am I making sense to you?

MR. FORD: Yes. I think you and I are in agreement. I would like to ask one additional question: would it be intended that a party could go to court and circumvent the effect of the commission by voiding it in going directly to the court under some other form of proceeding where the subject matter is something covered by the commission under normal circumstances? Let me give you an example, if it will help. For example, the workmen's compensation act requires that the place to go is the compensation commission and the defendant does not go outside of the remedies that are availed to the claimant in this case and he cannot prevent the claimant



from getting his remedy before this administrative tribunal. Now would your language permit a person who might be in a comparable position to the employer-defendant in a "comp" case going to the court and asking for relief that would prevent a determination by the administrative body?

MISS DONNELLY: My intent would be that if a citizen wanted to go to court he would not have to go to the commission. If he wanted to bring his action, if he felt that he had been infringed, that he had been injured, that he had a cause of action, that he may directly seek his legal remedy. A citizen does not have to exhaust himself by asking somebody to investigate, get somebody to come in, do all this, whatever the — of course first of all, I don't know what the commission will set up. We are only guessing and we have spent a lot of hours today guessing what they are going to do. Now whatever they are going to do, I don't know, but I do feel that every citizen should have a right to go to trial immediately if he wishes, and this is the point that I have in here; a citizen has a direct right to go to court, and he doesn't have to wait, be exhausted by waiting and trying, that he can go straight, if he wishes to, if he has a cause of action. This is their problem. I mean, how can I guess.

CHAIRMAN MILLARD: Does that answer your question?

MR. FORD: Yes. Thank you. Now in view of that construction, I would like to oppose the Donnelly amendment because it seems to me that you would void the effect of having a commission with any administrative powers if you made it possible to simply void the commission by finding another forum of action because you happen to have a forum of action which might produce similar results; and it seems to me that one very ready way to avoid the consequences of being brought before the commission would be to take the initiative by some sort of injunctive relief, for example, or attempted injunctive relief and keep the person making the complaint away from the commission for a considerable amount of time while you took him up the line and down the line through the courts.

CHAIRMAN MILLARD: That wasn't a question, was it, Mr. Ford?

MR. FORD: If it sounded like one, it was not intended to be.

CHAIRMAN MILLARD: Alright. The Chair will put you down then, Miss Donnelly.

Mr. Downs.

MR. DOWNS: I thought that the delegate, Miss Donnelly, had the floor. I would be glad to yield to her if she wants to make a comment.

CHAIRMAN MILLARD: Miss Donnelly.

MISS DONNELLY: Thank you, Mr. Downs. I would just like to say that I do not think any court would give that kind of an injunction unless the person had good grounds to show that he would be entitled to it. You could not circumvent any commission action without showing good grounds to circumvent it, and there has got to be grounds to get an injunction. As long as I have been practicing law, I haven't been able to get an injunction just signed willynilly — like that — and I don't think anybody else has ever been able to. I do not think your objection is well taken on that basis.

MR. DOWNS: Mr. Chairman.

CHAIRMAN MILLARD: You yielded, Mr. Downs.

MR. DOWNS: All right. Then may I be put back on the list?

CHAIRMAN MILLARD: Yes, sir. You will have her place.

MISS DONNELLY: I would like to yield to Mr. Downs.

CHAIRMAN MILLARD: No, you cannot yield. (laughter) Delegate Nord.

MR. NORD: Mr. Chairman, I suppose I cannot yield to Mr. Downs either, can I? (laughter)

I will say that I am opposed to this amendment. I think it is ill advised. Mr. Ford has made my main point: namely, that this would make it impossible for this board to have certain kinds of powers which it might prove desirable in the future for them to have. Many boards — and, in fact, I believe maybe you could even say most boards — have the power to make the initial determination of fact on an issue within their own jurisdiction. There cannot be any direct proceeding

in the courts on many kinds of administrative boards; you must go through the board. That is the reason for the board.

Now we are not providing that that shall be the case in this amendment, in the committee amendment, but we are giving the legislature the power to do that if they see fit, and the point that I make is simply this: why tie the hands of the legislature in advance in this way or in some other way? Let the legislature have this problem for the next 50 years and let them decide if they want to make this board similar to some other board which has the power to make the initial determination of fact or whether they wish to do it differently. This is another matter where we lose flexibility and we gain nothing.

I want to call your attention further to this language. It states in the Donnelly amendment, "This provision shall not be construed to enable the denial to any citizen" and so on. Now this language, "shall not be construed" has frequently been construed itself and has always been interpreted to mean an absolute prohibition. When you say, "This provision shall not be construed to" do a certain thing, it means the legislature shall be prohibited from doing this thing. That means the legislature will no longer have the power under this amendment to provide that the board shall be the fact finder in some area or other that they may wish. Therefore, I am opposed to this on the grounds that it is an unnecessary limitation on the legislature.

CHAIRMAN MILLARD: Mr. Everett.

MR. EVERETT: Mr. Chairman, fellow delegates, I rise to support the Donnelly amendment. I do not think that the arguments offered against it look at it very carefully. Today, under the law, if a person is discriminated against — we will say he goes into a restaurant and they will not serve him because of his race — he may sue the proprietor if he wants to. He does not have to go to any commission to straighten it out. He has the right to sue for damages. He has a right to go to the prosecutor and say, "Arrest this man; he has violated the law." Now if I understand it, what the Donnelly amendment says, is that he does not have to go to the civil rights commission as an exclusive remedy. He retains his right to sue. He retains his right to demand prosecution. And I agree with her. It would be absolutely inconceivable that a man could violate the constitution and then go to a court and say, "Give me an injunction to prevent somebody from stopping me from violating the constitution." This couldn't happen. So what she is doing is, she is adding to the rights of the individual, not subtracting from them.

Quite possibly, without this language the commission would not subtract from them anyway, but there is the possibility that by enacting this we would then deprive the individual of any remedy except to go to the civil rights commission. This might not be the remedy he wants at all. I think it is a perfectly proper amendment and I think it should be supported.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Mr. Chairman, could I, through the Chair, ask the author, Delegate Donnelly, a question regarding the amendment?

CHAIRMAN MILLARD: If Miss Donnelly cares to answer.

MR. DOWNS: I would like to ask you, Miss Donnelly, where you talk about the words "direct and immediate legal remedy," and I say that I think this has been touched on a little more, but I would like to get this a little clearer; that in many of our administrative agencies — and this has been touched on in civil service, for example — if an employee thinks he is wrongfully discharged, he cannot normally immediately go to court but must exhaust his remedies. I know that there is a danger that sometimes a person not only exhausts his remedies but exhausts himself. But I am equally concerned: would this mean that any administrative procedure set up for conciliation could be bypassed by either party by simply going into court before using the established remedies? Maybe I don't make my question clear.

MISS DONNELLY: I do not think you did. You say that you think that by a person starting a lawsuit — now, let's say I am job hunting and I think I am very qualified and they decide they are not going to hire a female. That is



my objection. They don't want women. Well, if I could prove that I have all the qualifications, et cetera, that the only thing against me is my sex—now, in my opinion, any person who could prove that, under this constitution as it was before we got on this, could go and sue; could say, "I am a female. I am qualified. They didn't hire me. Now let us sue." Now whether this is the best technique I could use, that is something else, but if I could get some teeth into it, if there were some law that says that there are damages and I could be able to recover damages on this—I do not know that they have ever passed that kind of a law—why should I have to wait for an administrative board to decide that they liked my idea or they did not like my idea and take 2 or 3 years? If I have a cause of action, or if any citizen thinks he has a cause of action because he thinks he is being discriminated against, he should be able to have his case in court without being exhausted elsewhere, in my opinion. This is the purpose of putting this in. I want to preserve to the citizens the right of enforcing their rights to themselves and not waiting for somebody else to do it.

MR. DOWNS: Mr. Chairman, may I ask another question through the Chair to Miss Donnelly?

CHAIRMAN MILLARD: Proceed, Mr. Downs.

MR. DOWNS: If, in the example that you cited, Miss Donnelly, let's say that the prospective employer or that you, not being as legally astute or qualified as you are, did not have legal resources but there was a commission set up for conciliation of such things as this matter, if you then went to that commission, would your amendment permit the prospective employer to enjoin that commission from conciliation or mediation and, instead, require the court to act on the matter and bypass the conciliation efforts of the board that was set up?

MISS DONNELLY: In your hypothetical, have you assumed that I have already had service and I've started my lawsuit?

MR. DOWNS: No, you have not started your lawsuit. You, as the individual who feels aggrieved, have gone to the commission which is starting conciliation. The conciliator from the board against discrimination has gone to the employer and said, "It looks as though this person were qualified; it was only the matter of sex that was involved. We think perhaps you should review your practices." Then the prospective employer says to that board or commission, "I will not let you in the door any more and, further, I am going to court to enjoin you from doing anything further and am going to ask the court to decide this directly."

CHAIRMAN MILLARD: Do you understand the question, Miss Donnelly?

MISS DONNELLY: On my case, I would say this is the only way that I could see that that could arise. In other words, they want to enjoin the board from furthering the issue of whether Ann Donnelly is employable.

MR. DOWNS: In saying that it should be resolved only in the court without going through the commission?

MISS DONNELLY: I don't know. I would see that if I had—you see, I visualize that I have started the legal remedy. I have gone. Then I think there is no question if I have got my service and if I have got my case started, I think we should be able to enjoin the commission from interfering with my lawsuit. Now, having gone the other way around—I didn't have jurisdiction in court yet—then the employer has got to seek an injunctive remedy against the board in my action alone, I would say, and I don't know if they would get it. I don't see how.

If I were sitting on the bench signing it, supposedly, on your facts, I would not sign the injunction. I do not think any judge would, because I do not think he has been given grounds to enjoin in that instance yet. I think maybe you could build up a case far enough so that maybe you might be able to, but—certainly on your facts—I do not think that any judge would ever give the injunction. I don't think there would be grounds for it.

CHAIRMAN MILLARD: Is that sufficient?

MR. DOWNS: Thank you. Yes, thank you, Mr. Chairman, and thank you, Miss Donnelly.

I certainly respect Delegate Donnelly's concern she has shown on the floor repeatedly for the right of individuals to use their legal remedies. I know she has been very avid in their protection. I am just a little concerned that this provision in the constitution might be construed contrary to what I believe was the intent of the author in putting it in.

I am a little more inclined to think that the way to solve the problem is that this board or commission would be set up and would be subject to the established rules of administrative agencies, due process, equal protection of the law, and so on, and their action would be subject to review by court. I would assume that if any board were too long, were dilatory, did not do their job right, the citizen certainly could go into court. I can see the advisability in certain cases of a person having his independent statutory right and the board or the commission being simply a supplemental or additional right.

With having said all of that, I am still inclined to think that while I agree with the intent of the author of this amendment, I think this would be better left out of a constitution and be something that would develop as time goes on. That is as mild a way as I can say that I rise to oppose the amendment but sympathize very much with the intent of the author.

CHAIRMAN MILLARD: Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, I believe that Mr. Everett has spoken about everything that I had to say on it, except that it does appear to me that the 2 delegates, Delegate Nord and Delegate Ford, are making a rather strong plea here for depriving the courts of the right to enforce any matters arising under civil rights and attempting to give the legislature the right to make this the exclusive remedy. If that was the committee's intent in proposing this, I would have to oppose it the entire way.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I had some conversation with Miss Donnelly, and I think one of the problems here is that I believe she is talking about the person whose civil rights have been violated by discrimination and, in effect, saying if your civil rights are violated by discrimination then if you want to seek the remedy in a court you should be able to do it. To this we do not have any objection.

Now, if that is what she means, then I wonder if she would be willing to clarify her statement so that it would read, "This provision shall not be construed to enable the denial to any citizen," inserting, "who claims that his civil rights have been violated by discrimination to resort to direct and immediate legal remedy in the courts of this state." I think the confusion arises over the fact that some people thought her paragraph or sentence applied to persons who were being brought before the commission and who were trying to circumvent the commission by jumping into court and trying to block any consideration by the commission. I do not think that is her purpose.

Now, could I ask, Mr. Chairman, if she would accept the language which I have suggested there?

CHAIRMAN MILLARD: Miss Donnelly, did you hear the question?

MISS DONNELLY: No.

MR. MARTIN: The language which I suggested to be added, Miss Donnelly, would come after the word "citizen" in your second line there and would then read, "This provision shall not be construed to enable the denial to any citizen," and insert there, "who claims that his civil rights have been violated by discrimination to resort to direct and legal remedy in the courts of this state." Would you accept that language?

MISS DONNELLY: Well—

MR. MARTIN: I am trying to perfect this in the—

MISS DONNELLY: I know you are, and I had 3 other people trying to perfect it, too, and actually, I am not sure, but—I am sorry—I think Bill Ford's perfection is a little better. (laughter) I'm getting them coming at me—my point, I thought, was very clear. Now, maybe this is something for style and drafting. I think yours is getting very verbose and his is, too, and I have tried to keep it short.

I mean that you are not going to take away any rights. In other words, it will be not in derogation of any right we have now and maybe you could just throw that in. Frankly, I think this is something for style and drafting at this stage of the game. I think the intent is clear: I want anybody who wants to go to court to be able to go to court.

CHAIRMAN MILLARD: Let us have a little order.

MR. MARTIN: I am willing to have style and drafting work on it, Miss Donnelly, and to go along with the amendment if it can be made clear here that you are talking about the right of a citizen who claims his civil rights have been denied either to follow up on these civil rights through the commission or to go into court to protect them. Is that what you mean?

MISS DONNELLY: Yes, you could have either remedy. You do not have to wait for it. Any citizens who feel they are being denied—I mean, you can have your rights denied in umpteen thousand ways that I can think of—

MR. MARTIN: All right.

MISS DONNELLY: —and I think this could be an employee or an employer whose rights are being denied by harassment, for instance. If they are being abused, they should be able to get some protection, too. This goes every way. I mean every human is entitled to privacy and certain rights and the further we get into this the more we almost should write the entire legislation.

CHAIRMAN MILLARD: Well, Mr. Martin, if you want to work out an amendment, why don't you move the committee rise and work it out and then we will talk about it afterwards? This back and forth is not getting us anywhere.

MR. MARTIN: I agree, Mr. Chairman. I was proposing not to move that the committee rise until 5:00 o'clock. Some of the members of the minority have told me there is a dinner in Detroit at which they are expected and to which they wish to go.

Does this create additional problems for anybody? Are there other amendments, Mr. Chairman, on this section that we have to consider or is this the last one?

SECRETARY CHASE: There are 3 others on the desk, Mr. Chairman.

MR. MARTIN: Well, I wonder, Miss Donnelly, if we could consider the other amendments and pass yours for the time being and see if we can work something out rather than try to do it in this way on the floor?

MISS DONNELLY: I will be happy to.

MR. MARTIN: If that is satisfactory then I move the amendment be passed temporarily and then we could go on, Mr. Chairman.

CHAIRMAN MILLARD: Without objection, the Donnelly amendment will be passed temporarily. The secretary will read.

SECRETARY CHASE: Mr. Leibrand offers the following amendment to the amendment:

1. Amend the amendment at the end thereof, by inserting a new paragraph to read as follows:

"Whenever the civil rights commission, upon its own complaint or the complaint of another, initiates a proceeding based on a claimed violation of civil rights, the party complained against may apply to the circuit court of the county in which he resides for assignment of counsel for his defense and means for the compensation of witnesses he desires to produce, and means for transporting himself, his counsel and his witnesses to and from all hearings held by the commission upon such complaint. Upon showing that the person complained against does not have reasonable means to conduct his defense, the court may make such order or orders as the showing requires, and the costs resulting therefrom shall be paid from the general fund of the state."

CHAIRMAN MILLARD: The Chair will recognize the proponent of this amendment, Judge Leibrand.

MR. LEIBRAND: Mr. Chairman and delegates, the language of this committee amendment and the comments that have been made thereon are entirely directed, as I see it, to the protection of a complainant. Nobody seems to have considered the possible position of the respondent. The com-

mittee's amendment, as I take it, assumes that the state and not the complainant will pay the cost of the investigation and prosecution of a claimed civil rights violation proceeding. That may be all well and good, but what about the plight of the party complained against? I think it is time that some consideration be given to his position and rather than go into a long and involved argument, I propose to give an example of what I am trying to get at; an extreme example perhaps, but I think it will get my point across perhaps better than any other way. Let us say that somewhere in the far western reaches of the upper peninsula—up in Delegate Butler's country—there is a man who is on welfare 9 months of the year and during the 3 other months he goes off welfare and he opens up a little hamburger stand by the roadside and makes his own living during the summer and maybe has a little bit besides. One day he gets a notice from Lansing that a complaint has been made against him alleging that he has failed to sell or refused to sell somebody a hamburger or that he deferred the service unreasonably long and the complainant has reason to believe that this denial of service was based upon his race, religion, national origin, or on his sex. (laughter) I think that a respondent in this position should have some relief and this amendment gives him some measure of relief. I do not think he should be required—perhaps it is impossible for him—to provide counsel, to provide witnesses. He may have a complete and adequate defense. How is he going to get a lawyer from Houghton down to Lansing 2 or 3 times, and witnesses? He may be completely innocent of that charge but how is he going to prove it? This amendment leaves it to the discretion of a circuit judge as to whether his need for public assistance in presenting a defense has been established.

Now, I am not going to talk at great length upon this amendment. We give this same kind of service—counsel, means for the production of witnesses and that sort of thing—to the lowliest defendant in a circuit court, and his problems are generally less grave than those of a respondent before a civil rights commission would be.

Now, in conclusion, I here now appeal to Delegates Norris, Nord, Hodges, and those other delegates in this convention who have been so greatly concerned with civil rights and due process for support of my amendment.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Judge Leibrand, I anticipated you by about a minute when I asked for the floor, and I would be glad to support your amendment with a slight modification, something like the one that Mr. Hutchinson once proposed to you, as I recall—or was it you to him? First of all, I would like to say this sounds like an interesting proposition. It sounds very much like socialized law to me, and I am rather surprised to hear it come from you. (laughter) If it came from me, I wouldn't be surprised.

It seems to me if this is a good idea—and possibly it is a good idea—I don't see why it should be limited to civil rights complaints. Why not go the whole distance and extend it to every kind of a claim, every kind of a lawsuit, every kind of a claim before any board? If you are willing to go along with me on that, Judge Leibrand, I believe I could be persuaded to support your amendment. Otherwise, it would seem to me that your amendment is discriminatory against the assertion of civil rights.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, this amendment again involves a long provision which is strictly statutory and which ought to be left to the legislature. It is reasonable to suppose that at first the legislature will make provision for hearings in places which are reasonably close to the places where the people are involved. That has been the practice with regard to other boards and commissions. And, second, it is to be expected that provision will be made for payment of witnesses and so on if this is necessary and the persons involved do not have funds for making such payment.

But, again, whether this is good or bad seems to me to be a question that should be left to the legislature and I am sure that the committee would feel that way about it: that we ought to leave this, as we have a number of these other

amendments, to legislative decision. I hope that the amendment will be defeated.

CHAIRMAN MILLARD: Mr. Austin, did you wish to be recognized?

MR. AUSTIN: Mr. Chairman, I wonder if I could ask Mr. Leibrand a question.

CHAIRMAN MILLARD: If he cares to answer.

MR. LEIBRAND: Willingly, sir.

MR. AUSTIN: Mr. Leibrand, it does appear to me that this is discriminatory because I know of a lot of taxpayers, particularly this operator of a hamburger stand, who might be charged with violation of the sales tax law and who might lose a lot of time trying to prove that he has paid all of his taxes. Would he be entitled to this? Do you feel that he should be entitled to this kind of reimbursement of his expenses?

MR. LEIBRAND: Well, I will have to reply to that, Mr. Austin, by saying that if he can prove his need, the fact that he cannot make a proper defense to the charge brought against him by the revenue department, that somewhere the public should pay for his defense. He should have at least the rights of a man charged with drunk driving, fourth offense—and the man charged with drunk driving, fourth offense, gets an attorney assigned to him.

CHAIRMAN MILLARD: The question is on the Leibrand amendment. All those in favor will say aye. Opposed, no. The amendment is not adopted.

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support? A sufficient number up. All of those in favor of the Leibrand 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 Mr. Leibrand, the yeas are 32; the nays are 77.

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

SECRETARY CHASE: Messrs. Norris and Nord offer the following substitute amendment:

1. 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 whose members shall be appointed by the governor to secure the protection of the civil rights guaranteed by law and by this constitution. The legislature shall prescribe the composition of this commission, its duties and powers, and shall provide sufficient moneys therefor."

CHAIRMAN MILLARD: The Chair will recognize one of the proponents, Dr. Norris.

MR. NORRIS: Mr. Chairman, ladies and gentlemen, I have listened with keen interest to the debate thus far with regard to the question of establishing a commission. Now there appeared to be, as I understand it, a rather common consensus that there ought to be such a commission, and the main difference and disparity of view seemed to center about who was to establish it and the timing of the establishment of it, namely, that the governor would establish it in the event that the legislature did not act. Then we had the observations of Mr. Bentley and Mrs. Elliott with regard to a matter which was inserted in the committee amendment. Now if there is the desire for certitude in this matter, if there is a desire on the part of this body to establish a civil rights commission, it seems to me and to Mr. Nord, as the cosponsors of this proposition, that there ought to be a simple, self executing provision in the constitution which creates it, so that there isn't the shifting of responsibility and the possibility of time consuming litigation between the executive branch and the legislative branch with regard to this important area.

Now, as I understand it, the main thrust in support of the committee amendment is 2 fold. First, that such a commission would have constitutional status. As I understand it, some of the people who are expert in this field have indicated that with the contemplated legislative organization and contemplated organization of the executive branch, of consolidation, that the present fair employment practices commission might get lost in the shuffle and that its vital work might be dis-

paraged. So that if such a commission were given constitutional status, it would not get lost in the shuffle and would afford an opportunity for such a commission to not only be in existence but continue to be in existence and to provide the second main idea; namely, a basic framework for administration of such other civil rights provided by the constitution and by law as may be adopted. These are the 2 ideas, as I understand it, that motivated those in the committee for such an amendment; namely, that it would have constitutional status and the commission would not get lost in the organizational shuffle and, second, that it would provide a basic administrative framework for the implementation of certain civil rights. Now if that is the intent of the committee amendment, it seems to me that there ought to be, therefore, a simple, self executing provision in the constitution which so declares.

I think that there are infirmities in the whole idea of just a commission. You may recall when the declaration of rights committee proposal was before the floor, there was a proposal which was a modified Hawaiian proposal and it merely states that the civil and political rights of citizens shall not be infringed on the basis of race, color, creed, and so forth, and there was a minority report of preference which sought to spell out these rights in order that they might be declared and protected. Now we are not declaring and protecting certain stated rights. This is an infirmity, in my judgment, in the committee amendment. It is an infirmity, also, in the revision thus far adopted by the committee, in my judgment.

But I do think that if it is the present consensus of a good number of the delegates to support the idea of placing in the constitution a civil rights commission, this is the way to proceed: to do it directly and also indicate that the legislature shall prescribe the duties and powers, provide the funds, and proceed to implement it. This would mean that the legislature as, for example, it has in recent weeks would not be able to say that we are not going to do anything in this field but we are going to wait until the constitutional convention is going to do something about it. As I understand the committee amendment, we are saying, well, we are going to see what the governor and the legislature are going to do about it in 2 years' time.

I think President Truman had a very interesting sign on his desk that is appropriate at this juncture. The sign read, "The buck stops here." That is, you cannot pass the buck any further. If it is the desire and willingness of this convention to support the proposition of a civil rights commission, then this is a simple way of proceeding, a simple and direct way of proceeding, and a useful way of proceeding. I don't think that it is going to accomplish a great deal but I do think it is a step in the right direction and the committee was attempting to take that step, as I understand Mr. Martin to so indicate. But if it is going to take the step, then it ought to take a firm and direct step so that it is a step forward and not a step into litigation. I think this is an amendment which I commend to your discussion on the merits. I hope that it is considered in the light and spirit in which it is advanced. In my judgment it would carry out the purpose of the committee and I so commend it to your judgment.

CHAIRMAN MILLARD: Does the other proponent wish to be heard?

MR. MARTIN: Mr. Chairman.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: It is 5:00 o'clock and we obviously cannot terminate our discussion of this proposal tonight. For that reason I move that the committee do now rise and we will take this up the first thing in the morning.

CHAIRMAN MILLARD: The question is on the motion made by Mr. Martin that the committee do now rise. All in favor say aye. All 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 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 a number of amendments thereto, has come to no final resolution thereon. That completes the report of the committee of the whole.

PRESIDENT NISBET: Announcements.

SECRETARY CHASE: Dr. Hannah has requested that the following announcement be made: the committee on legislative organization is having prepared a limited number of copies of the United States supreme court decision of Monday of this week on the Tennessee legislative apportionment case. Individual copies will be available on request beginning Friday morning in room D, downstairs. Because of the length of the several concurring and dissenting opinions totaling 146 pages and the cost of duplication, it is hoped

that only those delegates who have real use for or interest in this item will request it. John Hannah, chairman.

I have the following announcement of a committee meeting: the committee on style and drafting will meet tonight at 8:00 o'clock in room K.

Mr. Ford asks for leave of absence from the morning and afternoon sessions of tomorrow, Thursday; and Mr. Gadola requests leave from the Thursday morning session to appear before a legislative committee.

PRESIDENT NISBET: Without objection, the requests are granted.

The Chair recognizes Mr. Stevens.

MR. STEVENS: Mr. President, on this solemn occasion I rise to move that we adjourn.

PRESIDENT NISBET: The question is on adjournment. Those in favor will say aye. Opposed.

We are adjourned until 9:30.

[Whereupon, at 5:00 o'clock p.m., the convention adjourned until 9:30 o'clock a.m., Thursday, March 29, 1962.]

## ONE HUNDRED TENTH DAY

Thursday, March 29, 1962, 9:30 o'clock a.m.

### PROCEEDINGS

PRESIDENT NISBET: The convention will please come to order.

Our invocation this morning will be given by the Reverend Charles T. Klinksick, of the University Lutheran Church, East Lansing.

REVEREND KLINKSICK: Let us pray. Almighty God, for this assembled convention under its solemn responsibilities, we pray this day for

statesmanship — after silence;  
talk — after thought;  
trust — after trials;  
conscience — after conflicts;  
victories — after visions;  
forgiveness — after failures;

and the wit and good sense to enjoy the good that is being accomplished here. We ask this in the name of our Master, Jesus Christ. Amen.

PRESIDENT NISBET: The roll call will be taken by the secretary. Those present please vote aye. Have you all recorded your attendance? If you have all recorded your attendance, the machine will be locked, and the secretary will record it.

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

Prior to today's session, the secretary received the following request for leave: Mrs. Conklin, from today's session.

PRESIDENT NISBET: Without objection, the request is granted.

SECRETARY CHASE: Absent with leave: Mrs. Conklin, Messrs. Ford and Mosier.

Absent without leave: Messrs. Allen, T. S. Brown and Lundgren.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings, the following delegates entered the chamber and took their seats: Messrs. T. S. Brown, Allen and Ford.]

#### Reports of standing committees.

SECRETARY CHASE: The committee on rules and resolutions, by Mr. Van Dusen, chairman, reports back to the

convention **Resolution 84**, A resolution relative to time of convention sessions; with a substitute therefor, recommending that the substitute be agreed to and that the resolution, as thus substituted, be adopted.

Following is the substitute for Resolution 84:

A resolution relative to time of convention sessions.

Resolved, That the following be the work schedule for the convention:

Monday

2:00—approximately 5:00 p.m.

6:30—adjournment.

Tuesday, Wednesday\* and Thursday

9:30 a.m.—approximately 12:00 noon

1:30 p.m.—approximately 6:00 p.m.

Friday

9:30 a.m.—approximately 12:00 noon

1:30 p.m.—approximately 5:00 p.m.

\*Wednesday night sessions, 8:00 p.m. until adjournment unless otherwise ordered by the convention.

R. C. Van Dusen, chairman.

*For Resolution 84 as offered, see above, page 1845.*

MR. VANDUSEN: Mr. President, I suggest that in order to make our consideration to this as orderly as possible—I understand there are some amendments—that we first adopt the substitute, and then proceed to discussion of such amendments as there may be.

PRESIDENT NISBET: Mr. Ostrow.

MR. OSTROW: I oppose that.

MR. VANDUSEN: Mr. Ostrow, I meant, we don't adopt the resolution; we just adopt the committee's substitute; and then you have to vote on the amendments.

MR. OSTROW: No.

MR. VANDUSEN: If Mr. Ostrow objects, we will proceed in the ordinary course, Mr. President.

The resolution recognizes the absolute necessity that this convention either stop talking or spend more time listening. We have, simply, not enough time left between now and May 15 to proceed at our present leisurely pace and still expect to complete the work. For that reason the committee on rules and resolutions has unanimously recommended an intensified

frankly will be guided by the desires of a majority of the delegates. I think my personal recommendation would be that we plan on adjourning tomorrow at approximately 3:00 o'clock in the afternoon, to accommodate those delegates who had made plans to get away early. It's sort of a compromise between instituting it full force tomorrow and waiting until next week.

PRESIDENT NISBET: Thank you, Mr. Van Dusen. Communications.

SECRETARY CHASE: No communications.

PRESIDENT NISBET: Third reading.

SECRETARY CHASE: Nothing on that calendar for today.

PRESIDENT NISBET: Mr. DeVries.

MR. DEVRIES: Mr. President, if I may, I would like to make an oral report to the convention concerning our financial status, and maybe this will have some bearing on the way we conduct the debate for the next month and a half. Our lease expires May 31. There is no escape clause. We have to be out of here by May 15 in order to restore the civic center. On May 15 we will have \$100,000 left on which to operate. There will be no more delegates' salaries, of course. We need about \$250,000 to \$280,000 to complete the convention business. That's the preparation of the address, the convention record, the restoration, and so on. We have every hope that we will get the supplemental appropriation necessary for this. But, again, I repeat to you, the way we see it now, we've got to be out of here by May 15, and there is no escape clause. I urge you to keep this in mind during the next month and a half.

PRESIDENT NISBET: Thank you, Mr. DeVries.

Motions and resolutions.

SECRETARY CHASE: There are no resolutions on file.

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

*For last previous action by the committee of the whole on Committee Proposal 71, see above, page 1933.*

When the committee rose last evening there was pending the section i that had been offered by the committee on executive branch, to which several amendments had been adopted, and for which Messrs. Norris and Nord had offered the following substitute amendment:

1. 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 whose members shall be appointed by the governor to secure the protection of the civil rights guaranteed by law and by this constitution. The legislature shall prescribe the composition of this commission, its duties and powers, and shall provide sufficient moneys therefor."

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, since last evening the committee has been working to see whether we could work out something which would be satisfactory to the delegates on both sides of the house, or both the minority and the majority. I think we have made a good deal of headway. We would like a little further time on this, and I therefore move at this time that we pass consideration of the remainder of Com-

mittee Proposal 71, and move to the balance of the calendar, starting with Committee Proposals 59 and 60, and so on.

CHAIRMAN MILLARD: The question is on the motion of Mr. Martin to place Committee Proposal 71 at the foot of the executive branch general orders calendar. All in favor will say aye. Opposed, no.

The motion prevails. The secretary will read.

SECRETARY CHASE: Item 12 on the calendar, from the committee on executive branch, by Mr. Martin, chairman, **Committee Proposal 59**, A proposal pertaining to vacancies in the office of governor. Amends article VI, section 16.

*Following is Committee Proposal 59 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. In case of the impeachment of the governor AND CONVICTION THEREON, his removal from office, death, inability, resignation or absence from the state, the powers and duties of the office shall devolve upon the lieutenant governor for the residue of the term or until the disability ceases. [When the governor shall be out of the state at the head of a military force thereof, he shall continue commander in chief of all military force of the state.]

THE INABILITY OF THE GOVERNOR SHALL BE DETERMINED BY A MAJORITY OF THE SUPREME COURT WHEN SUCH DETERMINATION IS REQUESTED BY THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. SUCH DETERMINATION SHALL, WHEN RENDERED, BE FINAL AND CONCLUSIVE AND THE SUPREME COURT SHALL UPON ITS OWN PETITION DETERMINE IF AND WHEN SUCH INABILITY SHALL CEASE.

In case of the death of the governor elect before taking and subscribing to the constitutional oath of office, or before entering upon the duties of his office, the powers and duties of the office shall devolve upon the lieutenant governor elect on the commencement of his term of office.

Mr. Martin, chairman of the committee on executive branch, submits the following reasons in support of Committee Proposal 59:

The language of the first paragraph of this section has been retained except that the words "AND CONVICTION THEREON" have been added after "impeachment of the governor" in the first line. This change was suggested by Delegate Stevens in his testimony before the committee and was adopted because the committee felt that the present language was subject to abuse in that the impeachment is analogous to indictment and that the governor should be allowed to continue in office until convicted of the charges. This problem was considered by the 1907 convention, but it was their desire to not allow the governor to hold his office between time of impeachment and conviction or acquittal. Although the problem has not come up in Michigan, impeachment charges were voted against Governor Harrison Reed of Florida in 1868. The impeachment by the house had the effect of automatically suspending him from office under the terms of the Florida constitution, which is similar to the present Michigan constitution, but the senate failed to complete his trial within the prescribed time limit and he was eventually reinstated in office.

The committee was of the opinion that the second sentence of the first paragraph of section a regarding the governor's status while at the head of a military force outside the state was of no value and therefore deleted it in its entirety.

The new language, "THE INABILITY OF THE GOVERNOR SHALL BE DETERMINED BY A MAJORITY OF THE SUPREME COURT WHEN SUCH DETERMINATION IS REQUESTED BY THE PRESIDENT

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

It seems to me quite clear that the legislature is in the best position or the departments involved are in the best position to determine what kind of a job or position a person can have consistent with his duties; and in the absence of any abuses, which has been shown, it seems to me quite clear this is entirely a matter for the legislature. It certainly is a matter for the legislature if we take the language of the section as it stands amended.

**CHAIRMAN MILLARD:** The question is on the Everett amendment. The secretary will read it.

**SECRETARY CHASE:** Mr. Everett has offered an amendment to Committee Proposal 48 to strike out all of section a.

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

The amendment is adopted. Are there any further amendments to the proposal? If not, it will pass.

Committee Proposal 48, as amended, is passed. The secretary will read.

**SECRETARY CHASE:** Item 7 on the calendar, from the committee on executive branch, by Mr. Martin, chairman, **Exclusion Report 2027**, A report recommending the exclusion of article VI, sections 14 and 15. Substitute for Exclusion Reports 2001 and 2002.

*For last previous action by the committee of the whole on Exclusion Report 2027, see above, page 1730.*

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

**MR. MARTIN:** I yield to Mr. Durst, Mr. Chairman.

**CHAIRMAN MILLARD:** Mr. Durst.

**MR. DURST:** Since we have so overwhelmingly defeated the section that replaces these, Mr. Chairman, I assume we will have no difficulty with these. Section 14 merely provides that no member of congress or any person holding office in the United States shall execute the office of governor, which apparently there's no problem with any longer. And section 15 says, "No person elected governor or lieutenant governor shall be eligible to any office or appointment from the legislature," which, as Mr. Wanger has just said, we feel perfectly confident to have the legislature take care of at the present time, particularly since the governor is no longer eligible to be appointed as U. S. senator by the legislature. It is the feeling of the committee that there is no longer any need to continue these 2 provisions in the constitution.

**CHAIRMAN MILLARD:** Are there any amendments to the exclusion report? If not, it will be passed.

Exclusion Report 2027 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, and so forth.

At the time this was placed at the foot of the calendar there was pending a substitute amendment by Messrs. Norris and Nord to the proposed section i.

*For last previous action by the committee of the whole on Committee Proposal 71, see above, page 1954.*

**MR. KING:** Mr. Chairman.

**CHAIRMAN MILLARD:** Mr. King.

**MR. KING:** I have an amendment on the secretary's desk which I would like to have him read at this time.

**SECRETARY CHASE:** The amendment offered by Mr. King to the amendment offered by Messrs. Norris and Nord is:

1. Amend the amendment, first sentence, after "created a" by inserting "bipartisan"; so the amendment will read:

There is hereby created a bipartisan civil rights commission whose members shall be appointed by the governor to secure the protection of the civil rights guaranteed by law and by this constitution.

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

**MR. KING:** Mr. Chairman and fellow delegates, I am pleased to rise in support of the Norris-Nord amendment as amended by the word "bipartisan." I think every delegate

here is aware of the sincere interest and dedicated labor put forth through the years by these 2 distinguished law professors on behalf of civil rights. The amendment is concise, self executing, workmanlike, and it conforms with good constitutional law practices.

When it was first put forth, I asked one distinguished delegate of the minority party what he thought of it, and he said, "excellent." Now we will find out who sincerely supports constructive action in the field of civil rights. I agree with and I support the Norris-Nord amendment as amended. This noon I heard that this might be withdrawn and replaced by language designed to create a party line vote. Let me state here and now that I do not believe that these 2 gentlemen would participate in such action, and I don't believe any delegate here would have any part of it. I support the Norris-Nord amendment as amended.

**CHAIRMAN MILLARD:** The question is on the King amendment to the Norris-Nord amendment. Dr. Norris.

**MR. NORRIS:** Mr. Chairman, I appreciate the expression by Delegate King with regard to this matter, but I had inopportunely offered to withdraw this amendment on a previous occasion. But I did, on behalf of Mr. Nord and myself, want to withdraw the amendment at this time, because of our information that there would be an amendment which would incorporate this amendment and stronger provisions to implement the very distinct direction that Mr. King indicated he was in favor of.

There are infirmities in this particular section i, in the sense that it does not spell out a right to equal opportunity in employment, public accommodations, education or housing. And I think that any civil rights commission that is set up in the constitution ought to be clear in the direction that it is supposed to take with regard to what rights, in addition to others that might be created by law and by constitution, it seeks to protect. And I would like to at this time, Mr. Chairman, respectfully ask on behalf of Mr. Nord and myself to withdraw the amendment.

**CHAIRMAN MILLARD:** The proponent has a right to withdraw his amendment if he so desires.

The amendment is withdrawn. The question is on the committee amendment to insert a new section i.

**MR. BOOTHBY:** Mr. Chairman.

**CHAIRMAN MILLARD:** Mr. Boothby.

**MR. BOOTHBY:** Ladies and gentlemen of the committee, after looking at the draftsmanship of the amendment which Mr. Nord and Mr. Norris offered, I feel that it is far superior to the amended committee proposal, and I would like to reoffer that amendment.

**CHAIRMAN MILLARD:** Mr. Boothby reoffers the Norris-Nord amendment.

**SECRETARY CHASE:** Mr. Boothby offers a substitute amendment:

1. 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 whose members shall be appointed by the governor to secure the protection of the civil rights guaranteed by law and by this constitution. The legislature shall prescribe the composition of this commission, its duties and powers, and shall provide sufficient moneys therefor."

**CHAIRMAN MILLARD:** The Chair will recognize the proponent, Mr. Boothby.

**MR. DOWNS:** Mr. Chairman.

**CHAIRMAN MILLARD:** Do you wish to be on the list, Mr. Downs?

**MR. DOWNS:** Mr. Chairman, I wish to ask that the second sentence be separated, if that's in order now. I would certainly not wish to interrupt Mr. Boothby in his remarks.

**CHAIRMAN MILLARD:** The Chair will recognize you afterwards, Mr. Boothby.

**MR. BOOTHBY:** Mr. Chairman, it was suggested that since Mr. King had offered an amendment to it, that the way to dispose of this more swiftly would be to agree to the amendment which Mr. King had suggested, and I would so agree.

**CHAIRMAN MILLARD:** You have agreed to embody that in your amendment?



MR. BOOTHBY: Yes.

SECRETARY CHASE: Mr. Boothby then revises the language so that it reads:

1. Amend page 5, following section h, by inserting a new section to read as follows:

"Sec. i. There is hereby created a bipartisan civil rights commission whose members shall be appointed by the governor to secure the protection of the civil rights guaranteed by law and by this constitution. The legislature shall prescribe the composition of this commission, its duties and powers, and shall provide sufficient moneys therefor."

CHAIRMAN MILLARD: The Chair recognizes Mr. Boothby on his amendment, as revised.

MR. BOOTHBY: Mr. Chairman, I think that actually Mr. Nord and Mr. Norris have made the argument in favor of this particular amendment, and I would not want to detract from that argument by adding any further argument of my own, except to add that the wording which has been suggested by both Mr. Nord and Mr. Norris originally seemed to be very fair, and I think that it would be a step forward. It delineates the responsibilities of the legislature in this particular field, and it is a self executing provision. I think this is probably a step in the right direction, when you consider the fact that there are some who fear that the legislature will not act. I was not one who took that position. But if that is the real fear of this body—that the legislature wouldn't act—I think that this amendment would take care of that fear. It would create a commission which would be able to act in this important area.

CHAIRMAN MILLARD: The Chair will recognize Mr. Downs.

MR. DOWNS: Mr. Chairman, I ask that the second sentence be divided from the first sentence, so that the Chair would then rule that we act on the first sentence first.

CHAIRMAN MILLARD: Mr. Downs, the rule is that when an amendment is to strike out and insert, it is not divisible. You would have to make an amendment to it.

MR. NORD: Mr. Chairman, I have a point of order on that.

CHAIRMAN MILLARD: All right.

MR. NORD: I would like a ruling on this question about striking out and inserting. I realize the rule that has been referred to by the Chair states that a motion to strike out and insert is indivisible, but I suggest to the Chair—and ask for a ruling on this point—that a motion to strike out and insert is only indivisible in the sense that you can't divide it between the striking out on the one hand and the inserting on the other hand. But the text itself is divisible in the same way as any other amendment. I ask a ruling on that.

CHAIRMAN MILLARD: Dr. Nord, you can accomplish the same result by moving to amend by striking out.

MR. NORD: This isn't my motion. I simply ask the point of order.

CHAIRMAN MILLARD: Well, the Chair rules that it is not divisible.

MR. DOWNS: Mr. Chairman, this is a parliamentary inquiry. Would an amendment be in order to strike the second sentence?

CHAIRMAN MILLARD: That's right.

MR. DOWNS: May I have time to prepare that?

SECRETARY CHASE: We will do it here.

Mr. Downs offers an amendment to the pending amendment:

1. Amend the substitute amendment, after "constitution," by striking out all of the last sentence which reads, "The legislature shall prescribe the composition of this commission, its duties and powers, and shall provide sufficient moneys therefor." Is that your amendment?

MR. DOWNS: Yes.

CHAIRMAN MILLARD: The Chair will recognize Mr. Downs.

MR. DOWNS: Mr. Chairman, in doing this—and I realize there is always a problem in making amendments from the floor—I want to say that I agree with Delegate Boothby's analysis on the first sentence; that that does create a civil rights commission within the constitution, and it does not need action by either the legislature or the executive. And I think yesterday afternoon, when some of us were concerned

about the legislature and some about the executive, that this was a very happy resolution—I hesitate to use the word "compromise"—of the differences of those 2 positions. And I think to that extent the first sentence stands on its own feet. I am particularly glad where it says "to secure the protection of the civil rights guaranteed by law and by this constitution." That sentence, as I construe it, and I think this is a reasonable construction, sets up the commission to carry out the constitutional rights we have already established through the rights, suffrage and election portion of this document. The amendment would leave that alone. What it does do is strike out—and this is the key word—the "duties and powers" of the commission.

Now, I feel that if in the second sentence there we say the legislature shall prescribe the duties and powers, this may end up being nothing but, with all deference to Delegate Boothby, his amendment, in a different form, that we voted against yesterday afternoon. The concern I have is that while the first sentence says the commission shall guarantee the rights established in the constitution, that the second sentence might permit the legislature to set up the commission and then say its duties and powers shall be to educate and make reports, but not have the duty or power to help enforce those rights guaranteed by the constitution. In that sense I feel that the second and first sentences may be inconsistent.

I will say, in all candor, that if the amendment to delete the second sentence passes, that then it is very likely that we should use some language to specify how large the commission is, how it is created, its term, or the providing of funds, or something like that. But the real concern I have is that the phrase "its duties and powers" might be construed by a legislature to limit the commission in carrying out the protections that we have written into the constitution. I therefore urge that the amendment be supported which strikes the second sentence and would indirectly leave the first sentence intact.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, the objection which the committee has to this is that it does not go far enough, and it does not go as far as the amendments of the committee which have already received some approval here on the floor. However, the provisions so far as they go are satisfactory. And I propose, if this passes, to propose additional language which will strengthen this and which will endeavor to make sure that the legislature does go ahead and do something about this.

The language as it now reads is good language; but, as I say, it simply leaves the question entirely in the lap of the legislature, and of course that is where it has been lying for about 15 years or more and nothing has happened. We don't want it to continue to lie in that same lap for another 15 or 20 years while the problem gets worse and worse. So for that reason I'm going to vote for this language, and then I'm going to endeavor to improve it.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I agree with what Mr. Martin has pointed out. It seems to me, though—and I'm not sure that this is not his position, also—that we have something here which was drafted by a couple of distinguished delegates who had in mind the problems which confront our state, and along comes another delegate who wants to strike out half of it without giving us any idea of what he intends to put in its place.

Now, I do not object to a "strike and insert" amendment, but I think the provisions for making it mandatory that the legislature provide sufficient moneys and prescribing that the legislature shall make up the composition of this commission are indeed important. And I think we ought to defeat the Downs amendment at this time, and let's see what he suggests we put in place of the words which we now have, which were carefully drafted by 2 experts in this field.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Birmingham, Mr. Van Dusen.

MR. VANDUSEN: Mr. Chairman and members of the committee, Mr. Downs suggests some inconsistency between the first sentence, which specifies that the responsibility of this commission will be to secure the protection of the civil rights

guaranteed by law and by the constitution, and the second sentence, which directs the legislature to prescribe the duties and powers of the commission. I think that if there is such an inconsistency—and, frankly, I don't see it—it would lie in the use in the second sentence of the word "duties," because clearly under the first sentence it is the duty of this commission to secure the protection of the civil rights guaranteed by law and by this constitution.

Therefore, in order to offer those who see this inconsistency the opportunity to act upon it alone, I would request that the Downs amendment be divided so that we are able to vote separately on the question of the right of the legislature to prescribe the duties of the commission.

MR. NORD: Point of order, Mr. Chairman.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: The question I ask is this: is it possible to divide something where the 2 pieces can't stand separately?

CHAIRMAN MILLARD: The Chair will rule that if you want to make an amendment to the Downs amendment, you have a right to, Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman, I don't choose to press the point. Although it does seem to me that there are 2 separate questions: the right of the legislature to prescribe the duties, and the right of the legislature to prescribe the powers. For that reason, each could stand independently, and the question could be so divided.

CHAIRMAN MILLARD: Mr. Van Dusen, we should settle this question of whether the sentence is going to be left in or not, and then you can offer an amendment.

MR. VAN DUSEN: Very well.

CHAIRMAN MILLARD: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. Chairman and fellow delegates, I would like to support the original amendment. I don't know that I can add a great deal to what has been said already, except to state that I feel that the deletion of the second sentence, especially in view of the fact that we don't know what is proposed to take its place, would be a serious thing. I would think that we should approve this language as it is written at the present time. I believe that I can support this in the spirit in which it was offered, and recognizing that the legislature is the proper body to do the things which are stated in the last sentence which is now proposed to be deleted.

If this constitutional convention proposes to legislate in this area, I think it is making a very serious mistake. It is also making a very serious mistake if it proposes to take away from the legislature the power to do the things that are outlined in this sentence and transfer them to the governor, as was proposed by the committee. I say this because we must bear in mind that the legislature, while it has the power now to do this, can afford to experiment when it acts in a field of this kind, and can propose various ways of accomplishing this. It can come back next year and redo its work. But we can't do that, and I strongly oppose the convention taking the position that because the legislature has to date failed to act, then it is our responsibility to assume the responsibilities of the legislature. If we don't like the fact that the legislature has failed to act, what we should do is go to the legislature, go to the individuals there that represent us, and urge them to support this kind of legislation.

It is not our responsibility, I think, to come here to the constitutional convention and incorporate into a constitution what we admit and what the committee admits is a legislative matter. It may seriously handicap and tie the hands of the legislature in the future if the people should adopt the final product of our convention. We may be tying the hands of the legislature by transferring these powers to the executive. This would be, I think, a consideration that the people would have when they acted upon the final product of our work. If this is going to have any meaning at all, or any significance, the people must approve what we do.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Mr. Chairman, I would like to say, first of all, that the objections that have been raised by Mr. Downs and Mr. Van Dusen both are part of the reasons why Mr. Norris and I moved to withdraw the amendment until stronger amendments can be offered. There are 2 stronger amendments

that we have heard of which are to be offered. One of them I believe is Mr. Bentley's, or Mr. Bentley and others; and another one we believe will be offered by other persons as well which we will join. Those will make the language of the second sentence stronger and more specific in both cases, I believe. We would like the convention to have the opportunity to have a more specific statement in the second sentence before them. In addition, we also agree with the objections that Mr. Downs and Mr. Van Dusen stated about the duties.

I would also like to say further that as far as we can determine, nearly everybody, if not everyone in the convention, does agree without exception to the first sentence. And that is the main point that we hope we have contributed to this discussion, because that is intended to provide a self executing provision to set up a civil rights commission with no ifs, ands or buts. There is no way out, at least in our opinion, with the first sentence, from the creation of a civil rights commission, because it says "There is hereby created a civil rights commission," and then it says "whose members shall be appointed" and those words "shall be appointed" were very carefully selected. We intended them to mean and we believe they do mean that the governor must select members. Even though the legislature enacts no law explaining how the governor shall go about it, he will still have to select some members. That is at least the interpretation we intended, and we believe the language does carry that out. And as to that sentence, as far as we know, as we say, all of the amendments which we have heard of which are intended to be offered in addition to this will go in that direction.

The only question that is left open, really, for decision is whether the second sentence which is before us now is the best, or whether some other sentences could be inserted, which we believe will be advanced. We would ask the delegates to strike the second sentence for the time being, and to adopt this first sentence, which we believe has no controversy whatever in the convention; and then have the opportunity for other amendments to be incorporated or to be offered, rather, which will give substitutes for the second sentence.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Detroit, Mr. Austin.

MR. AUSTIN: Mr. Chairman, ladies and gentlemen of the committee, I am wondering if I could ask Mr. Downs to withdraw his amendment, so that I can offer a substitute amendment for the amendment offered by Mr. Boothby.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: If it's in order, Mr. Chairman, I would be glad to withdraw my amendment so that Delegate Austin may offer his substitute amendment.

CHAIRMAN MILLARD: The delegate has a right to withdraw his amendment. It is withdrawn.

MR. AUSTIN: Mr. Chairman, I have the amendment at the desk. I am wondering if the secretary will read it.

MR. BENTLEY: Mr. Chairman, a parliamentary inquiry.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Do I understand that we now have pending before the committee of the whole a substitute to the committee amendment? Do I understand that Mr. Austin's amendment would be an amendment to the substitute?

CHAIRMAN MILLARD: It has to be, because we still have the Boothby amendment before the committee.

MR. BENTLEY: And do I understand further, Mr. Chairman, if I may pursue my parliamentary inquiry, that if the Austin amendment to the Boothby substitute is adopted, that no further amendments are in order until the Boothby amendment has been disposed of?

CHAIRMAN MILLARD: We have to dispose of amendments as they come up, Mr. Bentley; and this is a substitute to the Boothby amendment, as the Chair understands it. Is it a substitute to the whole thing, or just to the Downs amendment?

MR. BENTLEY: Mr. Chairman, if I may pursue my parliamentary inquiry, I understand that the rules of procedure would only permit this to be an amendment to the substitute offered by Mr. Boothby, and if I am correct, this would be an amendment in the third degree, and no further amendments to

the Boothby substitute would be in order until this is disposed of.

CHAIRMAN MILLARD: The Chair hasn't seen the amendment yet.

Having now seen the amendment offered by Mr. Austin, it is a substitute to a substitute to a substitute, which is not allowable. We will have to dispose of Mr. Boothby's amendment first.

SECRETARY CHASE: Messrs. Van Dusen, Nord and Norris offer the following amendment to the Boothby substitute amendment:

1. Amend the amendment after "its" in the last line of the amendment, by striking out "duties and"; so that the last sentence would read, "The legislature shall prescribe the composition of this commission, its powers, and shall provide sufficient moneys therefor."

CHAIRMAN MILLARD: The Chair will recognize the proponent, Mr. Van Dusen.

MR. VANDUSEN: Mr. Chairman and members of the committee, I think that the purpose of the amendment is self explanatory. It is designed to eliminate any inconsistency between the first and second sentences. I think perhaps a more artistic expression of it would involve the inclusion of the word "and" after the word "commission" in the next to the last line, so it would read "shall prescribe the composition of this commission and its powers, and shall provide sufficient moneys therefor." If my cosponsors would accept that amendment orally, I would so offer it at this time.

SECRETARY CHASE: The amendment offered by Mr. Van Dusen is revised so that it will read:

1. Amend the amendment, second sentence, after the word "commission," by inserting the word "and"; and after "its" by striking out "duties and"; so that the language will then read, "The legislature shall prescribe the composition of this commission, and its powers, and shall provide sufficient moneys therefor."

CHAIRMAN MILLARD: The question is on the Van Dusen amendment to the Boothby amendment.

MR. LEIBRAND: Division, Mr. Chairman.

CHAIRMAN MILLARD: Division is called for. Is there support? There is a sufficient number up.

MR. KING: Mr. Chairman, I would like to raise a point of parliamentary inquiry. I'm confused at this point. Is this an amendment to an amendment to an amendment?

CHAIRMAN MILLARD: This is an amendment to the Boothby substitute amendment.

MR. KING: And that is in order, I take it?

CHAIRMAN MILLARD: It's in order. Judge Leibrand.

MR. LEIBRAND: May I direct an inquiry to Delegate Van Dusen on his amendment?

CHAIRMAN MILLARD: Surely, you can, through the Chair, if Mr. Van Dusen desires to answer.

MR. LEIBRAND: Mr. Van Dusen, who then will be the actual judge of the specific duties of that commission? If not the legislature, will it be the commission itself?

MR. VANDUSEN: Mr. Chairman, Judge Leibrand, the duties of the commission are prescribed in the constitution. They are to secure the protection of the civil rights guaranteed by law and this constitution. If there is any question about what securing the protection of the civil rights guaranteed by law and by this constitution means, presumably the question would have to have judicial determination. I think it is reasonably clear.

MR. LEIBRAND: As I understand it, the actual procedure and duties and activities of the commission then would be determined by the commission itself, since the legislature is not to be permitted to prescribe them?

MR. VANDUSEN: Mr. Chairman, Judge Leibrand, if I may respond further, the answer is no; the duties are prescribed by the constitution.

CHAIRMAN MILLARD: Mr. Bentley, did you want to speak on the amendment?

MR. BENTLEY: I request that the Van Dusen amendment be read again, Mr. Chairman.

SECRETARY CHASE: The amendment offered by Messrs. Van Dusen, Nord and Norris is:

1. Amend the amendment, second sentence, after "commission," by inserting "and"; and after "its" by striking out "duties and"; so that the sentence would read, "The legislature shall prescribe the composition of this commission, and its powers, and shall provide sufficient moneys therefor."

CHAIRMAN MILLARD: The question is on the Van Dusen amendment. Division has been called for. 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 amendment offered by Messrs. Van Dusen, Nord and Norris, the yeas are 99; the nays are 16.

CHAIRMAN MILLARD: The amendment is adopted. Are there any further amendments to the Boothby amendment? The question is on the Boothby amendment.

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support? There is a sufficient number up. All those in favor of the Boothby amendment, which is a substitute for the committee amendment, will vote aye. Those opposed will vote nay. The secretary will read the amendment.

SECRETARY CHASE: The Boothby amendment, as it is now amended, reads as follows:

1. Amend page 5, following section h, by inserting a new section to read as follows:

"Sec. i. There is hereby created a bipartisan civil rights commission whose members shall be appointed by the governor to secure the protection of the civil rights guaranteed by law and by this constitution. The legislature shall prescribe the composition of this commission, and its powers, and shall provide sufficient moneys therefor."

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: A parliamentary inquiry, please. What will be the posture of the committee if this passes? Where do we stand on the committee amendment, and so on?

CHAIRMAN MILLARD: This is a substitute for the committee amendment.

MR. AUSTIN: So if this passes, it will take the place of the committee amendment; and what about subsequent amendments?

CHAIRMAN MILLARD: They can be offered to it.

MR. AUSTIN: And substitutes?

CHAIRMAN MILLARD: They can be offered.

MR. AUSTIN: Thank you.

CHAIRMAN MILLARD: 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 Boothby amendment, the yeas are 118, the nays are 9.

CHAIRMAN MILLARD: The Boothby substitute is adopted. Mr. Bentley.

MR. BENTLEY: I now desire to offer the entire substitute to the Boothby substitute which is at the secretary's desk. It was marked to be divided, Mr. Secretary, but I would like to offer the entire language as a substitute to the substitute.

SECRETARY CHASE: Mr. Bentley offers the following amendment:

1. Amend page 5, after "Sec. i.", by striking out the balance of the section and inserting "There is hereby created a civil rights commission to secure the protection of the civil rights guaranteed by law and by this constitution. The commission shall consist of 4 members, not more than 2 of whom shall be members of the same political party, to be appointed by the governor for 4 year noncoterminous terms. The legislature shall prescribe by law the duties and powers of the commission to accomplish this purpose and shall provide sufficient funds for its effective operation. At any time following 2 years subsequent to the adoption of this constitution, the governor may submit to the legislature a proposed plan or plans to implement further the objectives of the commission as set forth in this paragraph. Where such proposals require the force of law, they shall be set forth in an executive order. The legislature shall have 60 days of a regular session or a full session, if of shorter duration, to disapprove such plan or plans. Unless disapproved in both houses by a resolution con-

curred in by a majority of the members elect of each house, such plan or plans shall become effective at a date thereafter to be designated by the governor.”.

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

MR. KUHN: A point of order, Mr. Chairman. May I ask the secretary, through the Chair, whether this amendment was offered before the Hatch-Kuhn-Upton amendment? I didn't think it was.

CHAIRMAN MILLARD: The Chair ruled that amendments could be made to the Boothby amendment after it was adopted.

MR. KUHN: Well, this was an amendment that was put in right after the Nord and Norris amendment, and I didn't realize there were any other amendments on the desk at that time, and I was wondering how this would come before ours.

MR. BENTLEY: Mr. Chairman, if the gentleman from Pontiac has an amendment to the section that he offered before my amendment, I will be happy to withdraw mine temporarily and permit his to be disposed of.

CHAIRMAN MILLARD: If you have an amendment at the desk, I haven't seen it, Mr. Kuhn.

SECRETARY CHASE: Mr. Kuhn, will you give us a little time, please? We understood that when Mr. Boothby offered the Norris-Nord amendment, that you had indicated that you were not offering yours.

Messrs. Hatch, Kuhn and Upton offer the following amendment:

1. Amend page 5, after “Sec. i.”, by striking out the balance of the section and inserting “There is hereby created a civil rights commission to secure the protection of the civil rights guaranteed by law and by this constitution. The commission shall consist of 4 members, not more than 2 of whom shall be members of the same political party, to be appointed by the governor, with the advice and consent of the senate, for 4 year noncoterminous terms. The legislature shall prescribe by law the duties and powers of the commission to accomplish this purpose and shall provide sufficient funds for its effective operation.”.

Do you wish the rest of the language added, Mr. Kuhn?

MR. KUHN: That was the end of that substitute amendment. You don't have any further language there that I know of.

MR. BENTLEY: Mr. Chairman.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I am wondering if we might solve this situation. The Kuhn-Hatch amendment which the secretary has just read is roughly the first portion of the amendment which I had previously offered. Since I understand that this is not a “strike out and insert” — or is it?

CHAIRMAN MILLARD: It is.

MR. BENTLEY: Then it is not divisible. I'm sorry. I will again be happy to withdraw temporarily to allow the pending Kuhn-Hatch-Upton amendment to be voted on.

CHAIRMAN MILLARD: The Chair will recognize Mr. Kuhn as the proponent of the amendment.

MR. KUHN: Mr. Chairman, this is not very much different from Dr. Nord's and Dr. Norris' amendment. This allows the governor to appoint a 4 man commission, 2 members of each political party, which makes it a bipartisan group. It also prescribes the duties and powers of the commission, and to accomplish this purpose, shall provide sufficient funds for its effective operation. On that basis we are submitting it as a substitute.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Mr. Chairman, I don't have the exact language before me, but assuming that it's the same or substantially the same as that offered by Mr. Bentley, I would offer 2 objections to it. One of the objections is the advice and consent, and I would say that this is an extremely serious objection, for this reason. The first sentence which we have already adopted as the substitute for the committee amendment, the whole idea behind it, and no other idea, is that there shall be a self executing provision for a civil rights commission, and that there's no way at all to prevent that commission from going into effect. That is the reason that we were very careful not to put in “the advice and consent of the senate,”

because if you have that provision in there, there is one way of preventing the civil rights commission from going into effect, and that is the senate failing to give consent. That prevents it from having the only advantage which we think the first sentence provided, and therefore I feel that this sentence vitiates the whole purpose of what over 100 people here have agreed to.

The second objection I have is not as serious as that, but it still is an objection which I think is sufficient ground for rejecting this amendment or substitute. That is the bipartisan commission of 4 members. To “bipartisan” of course there is no objection. In fact, it is a desirable thing. But a bipartisan commission of 4 members or an even number I do object to, on the same grounds that I objected to it, I believe yesterday or the day before, when we discussed another commission, the highway commission. It is true that a bipartisan commission on civil rights is less likely to deadlock perhaps than a highway commission, but the possibility is still there. I don't think we should have a bipartisan commission provided in the constitution of an even number of persons, with no solution as to what happens when you deadlock. I don't think that that is an insuperable problem, but I do say that if you leave it in the form that it is before us, that it is a problem which is a great problem. There is no reason to provide in the constitution something that is almost certain or, let's say, has a strong tendency to create deadlocks. Those are the 2 objections that I have to the present amendment.

One, as I say, it creates deadlocks, which is exactly what we want to avoid in civil rights. Two, it really vitiates the whole object of the first sentence and, as a matter of fact, of the entire section — which we have already adopted, as I say, with over 100 votes — an absolutely certain, self executing civil rights commission. I therefore can't support this amendment.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I think it is highly desirable that on matters of this kind that we have bipartisan action if it's possible. I know that the minority can't accept the advice and consent provision, but I think they could accept the rest of this if that were not in. And the majority can take the responsibility for introducing an amendment to put that in, and for voting on it subsequently.

I would like to ask Mr. Kuhn if he would withdraw that portion of his amendment which specifies advice and consent, and let us introduce it as a subsequent amendment.

MR. KUHN: As far as I'm concerned I would withdraw that. But it would also be up to Mr. Hatch and Mr. Upton.

CHAIRMAN MILLARD: Mr. Hatch, are you on that amendment?

MR. HATCH: Mr. Chairman, I wonder if Mr. Kuhn would be willing to withdraw the entire substitute?

CHAIRMAN MILLARD: Mr. Kuhn, you have heard the request.

MR. KUHN: Well, since Mr. Martin would like to put it all in as one, I would agree to withdraw it at this time.

CHAIRMAN MILLARD: Without objection, the Kuhn-Hatch amendment is withdrawn. The secretary will read.

SECRETARY CHASE: Mr. Bentley offers the following amendment:

[The Bentley amendment was again read by the secretary. For text, see above, page 1979.]

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

MR. BENTLEY: Mr. Chairman, members of the committee, the first 3 sentences of this proposed amendment are identical to the Kuhn-Hatch amendment which has just been withdrawn. They do not contain the phrase, “with the advice and consent of the senate.” I have another amendment here to offer to include that in the event that the pending amendment should be adopted.

The second 3 sentences are the new part, the addition to what has been spoken of before. There are those of us, Mr. Chairman, who are more than willing to give the legislature

initial authority to prescribe by law the duties and powers of the proposed commission to accomplish the purpose for which the commission is being created. There are the same number of people, I suppose, who have different opinions about whether or not there should be some requirement to obtain action in this field in the event the legislature was either unable or unwilling to so act.

The members of the committee will recall, of course, the committee amendment which was discussed at length yesterday which provided that in the event the legislature did not act within 2 years to establish the civil rights commission, the governor would, by executive order, establish the commission himself, with no legislative check. Although, of course, the committee amendment was not voted on, I point out that it was reported out of the executive branch committee by a 17 to nothing vote.

We are now, Mr. Chairman, attempting to follow a pattern which was earlier established by the committee of the whole in the pending Committee Proposal 71, and which I presume if this particular language were adopted, could be reincorporated within style and drafting to perhaps conform to that language and avoid perhaps some possible repetition. But we are proposing to give the legislature the 2 years to set up the commission. The governor actually will make the appointments, but the legislature will lay down the duties and the powers of the commission, and provide the funds for its operation. We are now proposing that at the end of 2 years, should the governor desire to submit a plan to further strengthen the commission and to further implement the objectives of the commission, that he may do so, as we have already approved his doing so with respect to executive reorganization plans in the earlier portion of Committee Proposal 71. The legislature will have the same disposition, the same availability. If they do not approve of the governor's proposed plans within 60 days, by a majority of the members of each house, they can adopt a resolution of disapproval and the further reorganization plans or the further plans for the implementation, strengthening or reorganization will become ineffective.

It seems to me, Mr. Chairman, that we are now faced with somewhat of a question as to just how far the convention wishes to go in the field of civil rights. We have taken an important and constructive step by adopting the Boothby amendment to actually establish the commission. We are now faced with a decision as to whether or not to take a second step and provide for an initial period of legislative-executive cooperation, and further executive ability to strengthen the commission, with the ability of the legislature to disapprove. I understand, of course, that there will be offered in all probability a third possible step, to be submitted by the gentleman from Detroit, Mr. Austin—at least, I understand that is his intention—to go beyond the language that is presently before you and spell out in somewhat more detail the duties and powers of the commission. We can of course adopt that language when we arrive at it.

I think, however, it is merely a matter for us to choose now as to whether we wish to be satisfied with the language of the Boothby amendment which has been adopted, or whether we wish to go another step further and provide for some additional ability to strengthen and reinforce the commission and to implement its objectives if the initial legislative steps in that direction are deemed to be meaningless or not sufficient to carry out the objectives for which the commission has been established. That is all the remarks I care to make, Mr. Chairman. I of course would be happy to answer questions. If not, I will be glad to yield the floor.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Detroit, Mr. Yeager.

MR. YEAGER: Mr. Chairman, I have a question for Mr. Bentley, please.

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

MR. YEAGER: Mr. Bentley, does the provision allowing the governor to issue an executive order having the force of law give the legislature the right to veto such an executive order within 60 days? In other words, does the legislative veto apply only to the plans that you refer to, or to the executive order?

MR. BENTLEY: Actually, the words "plan or plans" in the next to the last sentence, Mr. Yeager, should probably mean order. In other words, where the proposals require the force of law, they shall be set forth in an executive order. And to be consistent, I believe the words "plan or plans" should be stricken, and the word "order" substituted because, obviously, the legislature could only act in a situation where the force of law was involved.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I only want to call the attention of the members here to the fact that this amendment not only contains the language of the Boothby amendment, but insofar as it specifies the membership of the commission, and its terms, and so on, this is exactly the same language as we have in the proposal with respect to the state highway commission. We have tried to copy that language very closely. I think Mr. Bentley has amply explained the balance of the amendment. It is somewhat stronger than the Boothby amendment, and it makes it more certain that action would be taken and this would not be just a pious gesture. I think that's all we have to say at this time, Mr. Chairman. I hope, of course, that it will be approved by the committee.

CHAIRMAN MILLARD: Mr. Higgs.

MR. HIGGS: Mr. Chairman, I would like to direct a question to Delegate Bentley, if I may.

CHAIRMAN MILLARD: Mr. Bentley.

MR. HIGGS: Mr. Chairman, Mr. Bentley, in the last sentence of this amendment it appears to me that the executive would have a power greater than a majority of the members present in the legislature; in order to accomplish a legislative veto of any executive order which would have the force of law, it would require more than a quorum, is that right?

MR. BENTLEY: Mr. Chairman, I believe your interpretation is correct, Mr. Higgs. It would have to be a majority of all the members elected to each house. That we adopted from the language of the executive reorganization paragraph.

MR. HIGGS: Mr. Chairman, Mr. Bentley, in other words, you have given the chief executive of this state a greater legislative power than the legislature itself would have under normal circumstances, is that right?

MR. BENTLEY: Mr. Chairman, if you are referring to the fact, Mr. Higgs, that the legislature can pass legislation through a majority of a quorum, you are correct.

MR. HIGGS: I hope the delegates to this convention will have that in mind when they vote on this amendment.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, in response to Mr. Higgs' question, it should be called to his attention that this is exactly the same language which he has already voted for with respect to the proposal on executive reorganization—exactly the same authority in the legislature and in the governor.

CHAIRMAN MILLARD: Mr. Stevens.

MR. STEVENS: Mr. Chairman and members of the committee, I cannot agree that this is the same thing as the one regarding the creating of commissions and boards. That follows a theory which has been worked out in the federal government where the congress gives authority to the administration, to the president, to carry out the principles set forth by law by congress. That seems to be the theory on which we are working here. It is quite a different thing. It does not give the president the powers of congress, except to carry out details.

Now, in here, by constitutional provision, we are handing the governor a legislative power. At least, that's the way I construe it. We are giving him the power to give such things as the power of subpoena, the right to require witnesses to testify under oath, and so forth, to an administrative board, subject only to a sort of veto power of the legislative department. Only once before have we done anything of this sort in the Michigan constitution, and that is the provision whereby the governor may exercise a duty which is essentially judicial in character, or perhaps a duty which might be to the legislature, to remove certain persons from office under certain conditions. It's certainly contrary to this.

Now, I had decided to support the Norris-Nord amendment. It seemed to me it was well drafted, simple, self executing and sensible. I could make out what it meant. I cannot say the



same for this. But I certainly think we should do something to eliminate from anything we do the idea of giving the governor legislative powers. Thank you.

CHAIRMAN MILLARD: Mr. Higgs.

MR. HIGGS: I think Mr. Stevens covered everything I want to say.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman and fellow delegates, I would like to direct a question to Mr. Bentley if I might, through the Chair.

CHAIRMAN MILLARD: Mr. Bentley.

MR. KING: Mr. Bentley, the copy on this side of the room is not clear. I wonder if you could read the last sentence for me.

CHAIRMAN MILLARD: The secretary will read.

SECRETARY CHASE: The last sentence, beginning on line 17:

The legislature shall have 60 days of a regular session or a full session, if of shorter duration, to disapprove such plan or plans. Unless disapproved in both houses by a resolution concurred in by a majority of the members elect of each house, such plan or plans shall become effective at a date thereafter to be designated by the governor.

MR. KING: My question, Mr. Chairman and Mr. Bentley, is: suppose the date to be designated by the governor was 1999, would that mean that the plan would not go into effect until that time?

MR. BENTLEY: I presume, Mr. Chairman, in reply to the gentleman's question, I assume that would be correct.

MR. KING: Thank you.

MR. BENTLEY: The language, of course, was taken from the executive reorganization proposal.

SECRETARY CHASE: Mr. McLogan suggests an amendment to the amendment as follows:

Amend the amendment, after the third sentence which ends in "effective operation.", by striking out the words "At any time" and inserting "For the next 2 years" so that the sentence there will read:

For the next 2 years following 2 years subsequent to the adoption of this constitution, the governor may submit to the legislature a proposed plan or plans to implement further the objectives of the commission as set forth in this paragraph.

CHAIRMAN MILLARD: The Chair will recognize the gentleman from Flint, Mr. McLogan.

MR. McLOGAN: Mr. Chairman, this amendment would allow the governor only a period of 2 years following the 2 years subsequent to the adoption of the constitution in which to issue this executive order. It could not be deferred beyond that time. I would recommend the adoption of this amendment.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: We would have no objection to this whatever. It was not intended to give the governor an unlimited time forever to propose such plans.

CHAIRMAN MILLARD: Does the proponent agree to this change, Mr. Bentley?

MR. BENTLEY: I have no objection, Mr. Chairman.

CHAIRMAN MILLARD: If there is no objection, it will be incorporated in the Bentley amendment. Are there any other amendments?

SECRETARY CHASE: Mr. Austin has an amendment which is in the process of preparation.

Messrs. Austin, Binkowski, Nord, Norris, Young and Mrs. Daisy Elliott offer the following amendment to the Bentley amendment:

1. Amend the amendment, after "Sec. 1.", by striking out all of the first 3 sentences of the proposed language through "operation.", and inserting "There is hereby created a civil rights commission which shall consist of 5 members, not more than 3 of whom shall be members of the same political party, who shall be appointed by the governor for 4 year non-coterminous terms. The legislature shall provide sufficient funds for the effective operation of the commission. 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 by law and the constitution.

The commission shall have 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 powers as are necessary to carry out the purposes of this commission."

CHAIRMAN MILLARD: The Chair will recognize the first proponent on this amendment, Mr. Austin.

MR. AUSTIN: Mr. Chairman, members of the committee, I think the committee is to be commended for recognizing a very vital need to guarantee the rights of all citizens, particularly those who are deprived of some of their rights. The proponents of this amendment that we are proposing to amend have done an admirable job, and we feel that they should be complimented. However, there are some defects which we think ought to be brought to the attention of the committee, to see if we can't put the teeth in this commission that it needs if it is going to do an effective job.

The proponents of this particular amendment have purposely withheld introduction of these amendments until the convention had decided whether it wanted to adopt the concept of a civil rights commission. Now I think the convention at this point has demonstrated overwhelmingly that it is interested in a civil rights commission. We have gone part of the way; let's go all of the way. We all know that the legislature has refused to act in this area, and from expressions of leading members of that body it appears as though the legislature will be very reluctant to act. Now, there are some dangers in the Bentley amendment, and certainly in the amendment which the Bentley amendment seeks to replace, in not providing sufficient specificity with regard to the powers and duties of the commission.

I would like to remind the delegates that there are only 2 other commissions that have been given constitutional status. One is the civil service commission. The other is the highway commission, which was adopted on Tuesday. In each case we provided sufficient specificity to make sure that there would be no question about what was intended in regard to the framework, the political composition of the commission, who makes the appointments, the term of office, the duties, the powers and the funds. Now, the amendment before us—that is, the Bentley amendment—does answer some of these questions or does provide some of the specifics that are required. But certainly it does not go far enough in indicating the areas in which we expect this commission to work, and also in specifying the powers and duties of the commission. If the specifications are not given in the provision which we adopt here, the reference in the constitution to a civil rights commission may be of little value. It may tend to confuse. It could even have the appearance of a political maneuver, and may not encourage the legislature to move any faster than it is moving at this point.

I agree with many of the speakers who have preceded me that progress in the area of civil rights is not made by words on paper, it is made by acts and deeds. At this convention we must not show a reluctance to demonstrate our willingness to insist on positive action. Let's not be confused about what civil rights embraces. Our aim should be to achieve full enjoyment and participation by all citizens without undesirable discrimination in American life in terms of political, economic and other general aspects in the fields of employment, education, housing and public accommodations. And I would like to remind the delegates that the pursuit of happiness is the aim of every human being's dreams. Happiness is difficult for any person or group of persons to pursue when they are preoccupied with the struggle for political and economic freedom, and freedom to other civil rights. Those of us who take for granted our freedoms are not usually fully aware of the terrible handicap suffered by those who are deprived. I would also like to remind the convention that thus far our performance in this general area of providing opportunity for those who are deprived has not been as good as I think it ought to be, and I want to give some examples of just what I mean.

Our action on search and seizure, in my humble opinion, certainly will not redound to our benefit when it is analyzed by



those who are deprived. When we consider the regressivity of our tax structure and what we have done in our finance and taxation proposals to date, we will realize also that we have not been as fair to those who are deprived as we ought to be. When you think of voting rights, and when you consider how we have restricted voting rights to property owners, ignoring people who own children and possibly not property, you will realize that we have again taken a backward step in our consideration of those who are deprived. When we took away from the governor the right to fill vacancies on the judicial benches, we again took a step which certainly was not in the best interests of those who are deprived. And now we are about to provide a civil rights commission that has no teeth. Now, I certainly would suggest that you consider carefully the cumulative impact of these steps. I think you will all agree that they are devastating, and they won't go unnoticed.

The amendment which has been proposed here now does several things. First of all, it provides for a commission which has an odd number of members, thus avoiding any opportunity for deadlock along political lines. It also gives the legislature the right to prescribe duties, but it does not require the legislature to prescribe duties. It goes further in designating exactly what the powers of this commission are. And I think it is absolutely essential that we designate those duties in the constitution, so there will be no question about what the legislature or the governor will do should he find it necessary to set this commission in motion. I might add, also, that by being as specific as we are with this amendment, it is now possible for the governor to establish this commission. The duties are outlined, the powers are provided, and whether the legislature acts or not we will have a civil rights commission. I certainly urge the adoption of this amendment, because it provides the needed framework for a commission which we have agreed is essential, and which may not be efficiently established otherwise. And, Mr. Chairman, I would like to yield the floor to other proponents of this amendment who may desire to speak. I would first yield to Mr. Binkowski.

CHAIRMAN MILLARD: The Chair will recognize Mr. Binkowski, one of the proponents of the amendment.

MR. BINKOWSKI: Mr. Chairman, members of the committee, to start out with, I would like to emphasize a point which Mr. Brown and Mr. King emphasized earlier in our deliberations concerning the question of civil rights, and that is that this is not a negro problem. I think, very understandably, that many people associate civil rights with negroes because of the fact of the color of their skin and they cannot pass into society as many of us can. Speaking for myself, 50 years ago, when my grandfather came to this country, in order to get by he had to pass as a German in order to get a job. In the area of religious discrimination, about 3 weeks ago I had the opportunity to attend a meeting at which they were still distributing literature on why Mr. Kennedy should not be elected president of the United States, basically because of his religious convictions. I don't know if they're unhappy about the last election or if they're preparing for the next election.

Basically, I have 3 reasons which I shall discuss very briefly for being in favor of a strong civil rights provision. I will not speak in the order of their importance, but I would like to mention just 3. One is a pragmatic problem, from the dollars and cents angle. Two is the philosophical basis of this. That is, I think that if you have a true democracy, you can only have one by adhering to human rights. Thirdly, I think there is a religious or moral basis for this. Mr. Higgs and some of the other members were wondering when are we going to get into the area of specifics, and I think here we have specific situations which you can consider.

Now, what do I mean by civil rights? Simply this: that each citizen of a community is granted an equal opportunity to a job, a home, an education, to public facilities and a place to worship. While we have eliminated slavery, segregation has taken its place. In the north, segregation is not legal—it's social. Negroes, Mexicans and Puerto Ricans are allowed to live in one section of our city, but not in another.

I would like to mention very briefly, parenthetically, it seems that each generation produces its forgotten man, and I think that this generation's forgotten man is probably the migratory

workers who, in the main, are Mexicans and who in this country of course are almost completely unorganized and left to themselves. We have, if you will recall in the Detroit newspapers, a situation where we have all negro schools with all negro teachers, and we try to convince the children that their life in this respect is different in Michigan than in Alabama. I think that history will judge our nation severely on this score.

Now, getting into the area of pragmatism, or the dollars and cents question, it has been estimated by Mr. Elmo Roper that the total cost of discrimination in this country is \$10 billion a year. I don't think that we can continue to afford the luxury of racial discrimination any longer in this country. A second consideration is a philosophical one. The cornerstone of a democracy is the spiritual principle of the dignity and worth of the individual. Man has dignity because of his divine origin. The Judaic-Christian concept of man has shaped the political institutions of the western world. Under the Judaic-Christian tradition, man is believed to possess dignity and worth because of his divine origin. American democracy has been built upon this fundamental principle. And Jefferson's eloquent statement that all men are created equal and endowed by their Creator with certain inalienable rights is the cornerstone of American democracy. Few Americans would disagree with the principle of equality. But, nevertheless, there are substantial numbers of people in this country whose race, color, religion or nationality has caused them to question if equality is anything more than a slogan. As a catholic, I subscribe to the Bishops' statement in 1958, in which it was said:

The heart of the race question is moral and religious. It concerns the rights of man and our attitude toward our fellowman. If our attitude is governed by the great Christian law of love of neighbor and respect for his rights, then we can work out harmoniously the techniques for making legal, educational, economic and social adjustments. But if our hearts are poisoned by hatred, or even by indifference toward the welfare and rights of our fellowmen, then our nation faces a grave internal crisis.

I think that Dr. Hannah eloquently pointed out in detail the importance of this question on a national issue. These rights, according to the Judaic-Christian faiths, are or should be available to everyone, and it is wrong to deny any or all of these rights to a person because of race, religion or nationality. We believe that if a democratic society is to grow and prosper it must bring its deeds in line with its creed. We think that this can only be accomplished by a provision which is meaningful and with teeth in it.

In conclusion, then, it is our belief that the principles of morality and justice demand that Michigan solve its remaining civil rights questions, but it is also essential that we do this to preserve and extend our democratic system. For survival of democracy depends upon an open society in which no arbitrary or superficial restrictions are placed upon any citizen to participate and contribute to that society. Time and world opinion is passing us by on this question. And I will make no appeal, as Dr. Hannah did, to equality, because it damages our international reputation, important as that is; I am speaking on this subject because it is the right thing to do, regardless of any other consideration. Therefore, I move the adoption of this amendment.

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: Mr. Chairman, at this time I would like to yield to Dr. Harold Norris.

CHAIRMAN MILLARD: Dr. Norris is recognized.

MR. NORRIS: Mr. Chairman, ladies and gentlemen of the committee, I think that the entire experience with the measures that have preceded in this segment of the executive committee's proposals has indicated some of the fruitfulness of the deliberative process in action. And I think that each of the various measures that have come before the body and the amendments thereto have improved the principle which was subscribed to by that committee. I think we are now at the threshold of going further in order to give substantive vitality to a sacred area in a constitution.

Now, I think that the basic proposition which we came to yesterday of trying to rectify a situation where there was

constant shifting of responsibility of the executive and the legislative powers to a point where we concurred in very large measure at this convention in the idea of a self executing commission—that is, a commission which would be brought into being by the constitution—indicates that we have made some progress in this area. But some progress may not be enough progress. And I think that the amendment which we now have before us carries that progress forward and gives it the kind of effectuation we want to give to this important proposition.

Now, the major question that I think this amendment addresses itself to is one that has been posed by over 100 years of American constitutional history and that is: what are the civil rights guaranteed by the constitution? We have had a considerable volume of constitutional jurisprudence, some of it vexatious and some of it still with us, addressing itself to 3 questions: 1. What is the nature of the right guaranteed? 2. Who protects it? 3. Against whom is the right protected?

When we speak of the nature of the right, we have provisions in the constitution regarding privileges and immunities, and there has been abundant, ambivalent jurisprudence regarding that proposition. When we speak of the nature of the right we also speak of the rights encompassed under the substantive features of the due process clause, and we also think of them under the denial of equal protection. When we think of who protects, we think, in our dual system of government, of the state and the federal responsibility. And when we think against whom are these rights protected, we think in terms of state action as well as private action.

We are now in the frontier in this nation of moving forward to giving concrete form to answers to these questions. And any step that is to be worth its salt must give some degree of specificity, and not leave it up to the vagaries or the vicissitudes of litigation. I submit that this particular amendment does carry forward this idea of giving specific form to the rights which we seek to protect as the indispensable minimums to full equality and full humanity for all of our citizens. And so when we say there shall be civil rights to employment, education, housing and public accommodations, I think we are touching a responsive chord in the minds and hearts of all of our 8 million citizens—indeed, of all of the people of the United States.

I know that we speak of trying to guarantee the rights guaranteed by law and by this constitution. We have indeed by our declaration of rights sought to make those rights specific, to declare them, to proclaim them, to give them effect; and to give them the specificity that we have set forward in our declaration of rights is precisely the purport of this particular amendment. I think it merits not only your considered and deliberative attention, but your support. You have an opportunity here to make history in these United States. I understand the observations made by Dr. Hannah with regard to the international importance of these matters. I concur in the observations of Delegate Binkowski that we ought to do these not merely because of their impact elsewhere, but because they are morally right, and intrinsically so. I say, too, that an America that is true to itself cannot be false to any nation. And in order to be true to itself, it must in the constitution on the federal level and in the constitutions on a state level say to the people that they have an equal opportunity to a job, to a house, to education and to public accommodations, as the indispensable minimum by which people can be and hold their heads up in dignity as citizens of the United States.

There is, therefore, a clear delineation of rights in this amendment; there is a clear delineation of the way by which these rights are to be secured and protected. I think that this convention has an opportunity here to move forward in a qualitative fashion that would reflect with historic credit upon each of the 144 delegates. I urge and commend to you that our deeds be in line with our creeds, as Mr. Binkowski put it, and that we support wholeheartedly this amendment. Thank you, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: I would like at this time to yield to Delegate Nord.

CHAIRMAN MILLARD: Dr. Nord will be recognized as one of the proponents.

MR. NORD: Mr. Chairman, I would first like to say that I regard this amendment as an attempt to perfect the principles which the executive committee has brought forth to us, and also to perfect the ideas which the committee of the whole has thus far adopted. I agree with the statements of the previous speakers that what we have done is an extremely important step forward, and now what we wish to do is to perfect that step forward to make it not just a step, but a stride.

Rather than explain why civil rights is a good thing—I think that's extremely unimportant; I believe everybody here knows why civil rights is necessary—what I would like to do, rather, is to analyze the specific amendment and explain why I believe this amendment and this language is the preferred language; and to explain why Mr. Norris and I felt we would prefer to have our names attached to this amendment rather than the briefer amendment that we originally offered.

As to the first sentence, the first sentence says, "There is hereby created a civil rights commission," and so on. That language, of course, together with the language that follows towards the end of the sentence, "the members of which shall be appointed by the governor," is the same as that which we have already adopted in committee of the whole. That is the self executing language, and I believe that that is quite clear. I would also state, while I am at it, that the language of the Bentley amendment differs from this in certain respects, and does not say that the governor shall appoint these members, and it therefore doesn't mandate the governor to do so. This does mandate the governor to appoint such a commission, and therefore we intend and believe that this is self executing in every respect.

The next thing we find in the first sentence is that there is to be a bipartisan commission. We don't think that there is anything debatable about that. As far as we know, nobody objects to that. I believe everyone thinks that it is wholesome and desirable. That is a feature found in both the Bentley amendment and this amendment.

The next feature that we find in the first sentence is the odd number of members. As I pointed out before in discussing the predecessor to the Bentley amendment, the Kuhn amendment, I objected to the even number in a bipartisan commission because it seemed to me it simply invites deadlocks. It seems to me, for example, that what would be very likely to occur, or at least likely to occur, is that the 2 members of the same party as the governor would be likely to induce deadlocks so that the governor would in effect settle it by possibly replacing one of the other members of the other party. That would not be desirable, in my opinion. I believe this is a satisfactory solution. Because here it is certainly not necessary to have both parties of equal strength. It is desirable to have both parties represented, but there is certainly no reason why they must be exactly equal. The provision we have here now is there shall be not more than 3 of the same party, so therefore there will be 3 and 2, and deadlocks on this basis will be impossible.

Staggered terms are also provided at the end of that sentence, and as far as I know that is considered to be desirable in all cases, and I think that is in the Bentley amendment as well. So sentence one, as far as we can determine, takes care of what we have already done, and goes further in the same manner as the Bentley amendment would do, except that it contains a provision for an odd number of members of the commission.

The second sentence simply states, "The legislature shall provide sufficient funds for the effective operation of the commission." We believe that is a quite simple and easily understood provision. That states, in effect, that the legislature has a pocketbook veto, you might say, which is the correct role for the legislature over a commission.

The third sentence spells out the duties of the commission. To a certain extent the language here is the same as the language we have adopted, but it has been expanded, of course, as you can see. It does state that it shall be the duty of the commission—and skipping a clause, we find at the end of the sentence ". . . and to such other civil rights as provided by

law and the constitution," and there is additional language here, all of which gets down to the language you have already agreed to. The language that is added in this sentence—and to me it is extremely important, and warranted the introduction of this amendment rather than our original amendment—is the language that it shall be the duty of the commission to investigate violations of civil rights, and that, we believe, presumably, would be unobjectionable. That is really the main function of the commission.

The other things that are added are specific features of civil rights to which we wish to direct attention: employment, education, housing and public accommodations. Now, these 4 types of civil rights are selected for the following reasons: these are, as I recall, the exact terms or the exact civil rights which were mentioned in the report of the declaration of rights committee when it proposed the civil rights provision which we adopted. This simply states pointblank that these civil rights are to be protected, whereas previously we stated in the report that they were to be protected. Here we have the language in the constitution, supplementing the report, and the purpose of the civil rights provision which we have adopted. We think that it is important that the civil rights commission should have some direction, and it should be the same direction substantially as we have provided in our report.

Now, the final paragraph provides the powers. In the original amendment we left that basically blank and asked the legislature to figure out what those powers should be. All of the proponents believe that it is better—in fact, it is very important—to put in the powers, and to put powers into the constitution which are similar to the powers of other commissions; substantially identical, in fact. The language here was taken—I don't remember whether it was taken verbatim—but it was taken substantially from the civil service commission's powers. There are no powers in here which are unusual. The powers are the normal powers of most boards. As I say, they were taken directly from the civil service commission's powers. The powers are to promulgate rules and regulations, which is the case, as far as I know, with nearly all boards; to hold hearings, and of course in order to investigate they must hold hearings; to administer oaths, which is necessary in order to hold hearings; to require the attendance of witnesses, and this is not a subpoena power, but simply the power to ask the court to direct people to appear; to require the submission of records; to take testimony; and to issue appropriate orders. These are the same words, I believe, as in the civil service commission provision.

Therefore, for these reasons, Mr. Chairman, we believe that, as far as we know, every word in here and every provision that has been suggested has some basis in what we have done in the past in other parts of the constitution. As far as we know, there is nothing here that is extreme, and as far as we know it is simply carrying out the desires of the delegates, but expressing it in clearcut language as a constitutional mandate for the civil rights commission which you have created. We certainly hope that you will give full consideration to this, and that you will support this amendment.

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: Mr. Chairman, there is one more proponent desiring to speak on this, and that is Delegate Young.

CHAIRMAN MILLARD: The Chair recognizes Delegate Young as one of the proponents.

MR. YOUNG: Mr. Chairman, ladies and gentlemen of the committee, this is unquestionably one of the most basically important issues to come before this convention. The issue of civil rights ranks equally in importance with reapportionment and taxation as one of the key and basic reasons why this convention was called in the first place. This is also a bipartisan or nonpartisan question. I think the best proof of that is the fact that various measures in the direction of civil rights have been offered on this floor by members of both political parties here represented. So by no means can this be considered to be a political question, and I hope that it will not become a political football.

As an indication of the bipartisan interest in this commission, we have only to quote Dr. Hannah, who said yesterday that civil rights is the most important domestic issue facing

our nation today. And I think that that is a correct assessment of the importance of the issue with which we now seek to deal. But I would extend Dr. Hannah's remarks even beyond the shores of our own country; certainly beyond the boundaries of our own state; because there can be no question that the issue of race discrimination, of white supremacy, is a basic issue around the world today. It has been pointed out that a vast majority of the world's population is nonwhite. It is well known that many of the oppressions of people outside of our country are suffered because of racial considerations. And it is pretty obvious that the eyes of all these people and all democratic people around the world are justly focused on America and the manner in which we handle this question. Now, we here in the state of Michigan have a remarkable and historic opportunity. We have the opportunity to write a new constitution and to take into recognition this new situation, this new freedom wind that is sweeping across the globe, and to see if we in Michigan can modernize our state and bring our state forthrightly and honestly to grips with this very important question. We are the first state given an opportunity to rewrite its constitution since the famous supreme court decisions dealing with desegregation in the field of education, and a whole series of other decisions dealing with this matter. I suspect we will have other important decisions to make because of another supreme court decision a little bit later on in this convention, but that is not the subject before us now. The big question is: are we in Michigan willing to meet the challenge of the times and the challenge of democracy? And I agree with Dr. Hannah that this is the single most important domestic issue we face in America today.

Now, Delegate Romney yesterday on the floor indicated that extraordinary situations call for extraordinary measures. And I think that we will all agree that the matter of race discrimination and second class citizenship is indeed an extraordinary situation in the land of the free. I think that we will agree that it calls for extraordinary measures, and I think that we are addressing ourselves here today to those same extraordinary measures. Mr. Romney said further that it is vital that we eliminate this injustice within America, and I agree. And here is our opportunity.

To quote further bipartisan concern with this issue, Delegate Higgs said yesterday, "Let's spell it out." He also said, "I want to know in what direction I'm going." Well, I think this amendment on the wall spells it out. I would also like to know in what direction Delegate Higgs is going. I would like to hope that it is in the direction of freedom and democracy for all. And I would like to hope that this is the direction of this whole convention.

This is not only a bipartisan question, it might be described as a biracial or multiracial or a nonracial issue. Because it has been clearly demonstrated that what is at stake here goes far beyond the color of an individual's skin, and that black and white alike are affected and degenerated by the denial of civil rights. So I hope that we will approach this basic question on a truly bipartisan level, on an honestly nonracial level; that we will seriously consider the challenge and the opportunity that face us here today.

Now, it is my opinion that the amendment on the wall is an honest amendment. It not only says that we believe there should be a civil rights commission, but it sets up a civil rights commission. And like the civil service commission and the highway commission, we define what that commission shall do. Now, if we mean what we say, then we will go all the way. I honestly solicit your support for this amendment.

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: Mr. Chairman, this concludes the presentation of the proponents of this amendment. I would just add one remark, and that is that if we want a self executing commission that has the powers and the duties prescribed so that it can actually go to work, whether the legislature acts or not, you've got it here; and for those delegates who are interested in having a civil rights commission set up as soon as possible, I would certainly urge the adoption of this amendment.

CHAIRMAN MILLARD: The Chair recognizes the gentleman from Owosso, Mr. Bentley.

**MR. BENTLEY:** Mr. Chairman, I said earlier that by the adoption of the Boothby amendment we have taken an important and constructive step in this field. The amendment which I offered and which the pending amendment seeks to amend I think represents a second equally important constructive step. The pending amendment offered by my good friend from Detroit, Mr. Austin, represents a third step. I somewhat regret, Mr. Chairman, that we are called upon to vote on the third step prior to a vote on the so called second step.

I might point out that, technically, the pending amendment was subject to a point of order, which I did not seek to make. But I hope very much that if step 3, the pending amendment, is not approved, it will not thereby jeopardize the passage of step 2.

Looking at the pending amendment, Mr. Chairman, I do not find too much to object to in the first paragraph. I think perhaps some of the language may be superfluous in view of the previous action by the convention in adopting Committee Proposal 26, but I think, and I would be willing to admit, that there is language in the opening paragraph that probably improves upon the first portion of my own amendment. It is only with respect to the second paragraph, the so called powers—or, as several delegates have expressed it, the teeth—of the commission, that I must regretfully take exception. Not, I point out, because I would not hope that the commission would not have such powers; but because I think that the legislature should be given the opportunity to present the commission with these powers through legislation. I would hope very much that if this were not done, that the executive would take steps to see that this was done following the 2 year period which my amendment proposes. But I seriously question, Mr. Chairman, the advisability of writing into the constitution specific powers, and thus usurping the legislative function in this respect, needful as these powers are, I fully recognize, for the effective operation of the commission.

As I say, I hope that the committee of the whole and the convention will adopt as forward looking an area of progress in the area of civil rights as we feel able to make. And regardless of the disposition of the Austin amendment, I would hope that we would maintain the step which we have already taken. I certainly commend the committee of the whole for its first step in adopting the Boothby amendment. I hope that the committee of the whole will feel called upon to go beyond that, because as was pointed out earlier, there are many of us who do not regard the language of the Boothby amendment as sufficient in this respect. It is only with respect to this one paragraph of the pending amendment that I am prevented from offering my support to it, and I do commend the authors of the pending amendment, many of whom I have tried to work closely with over the last few days in this important field to develop a civil rights provision that could be truly bipartisan in nature. I commend their earnest and sincere work.

Regardless of the outcome of their own efforts, I hope very much that whatever is finally acted upon by this convention in this field will be to as large a degree as possible bipartisan or nonpartisan in nature, because that's the way that all freedom loving citizens should regard this important area of civil rights. Thank you.

**CHAIRMAN MILLARD:** Mr. Higgs.

**MR. HIGGS:** Mr. Chairman and fellow delegates, I intend to support this amendment. I do believe that it meets the test. If we are going to legislate, I think that this body of 144 delegates should assume that responsibility itself, and not pass it along to the legislature and ultimately, potentially, to the governor acting alone. I believe that it is an honest and forthright approach. I think that Delegate Nord, when he stated that these are the ordinary and usual powers of commissions, especially as in paragraph 2, is correct. I think if we are going to give meaning and purpose to this, we should support this amendment; and I prefer this to the committee amendment, because the committee amendment does not spell it out.

Now, I do not believe that I'm being inconsistent with my position in that I would prefer the Boothby amendment. I prefer that because it places the responsibility entirely in the legislature, where I think it belongs; with a body and a group

of men and women to assume this responsibility. But if we are going to take the step suggested by Mr. Martin and Mr. Bentley and not spell it out, but leave it potentially to the ultimate power of 1 man alone, then I think I myself would feel much more happy with assuming that responsibility here and now. I think that this is ultimately the direction that the commission established should go. I think these are the powers that ultimately the governor would be compelled to give, to enforce these rights in this particular manner. And I don't think that we should try to conceal that fact in any way. We should take this step forward in this convention if we are going to do it at all.

I would say that there is one further argument: that we are not here writing a blank check to a sole executive power. We are going to write that check, spelling it out ourselves, and submit it to the people for their approval. And I think we should do this in an open, frank manner. I commend the proponents of this amendment, and I will vote for it.

**CHAIRMAN MILLARD:** Mr. Everett.

**MR. EVERETT:** Mr. Chairman and fellow delegates, I oppose this amendment. I'm not speaking now to the question of whether there will be 5 men or 4 men, or how they are to be appointed, but rather to the balance of this. I think both Delegate Nord and Delegate Higgs have overlooked an important fact when we write in these powers. I concede that the commission should have these powers, and they should be given by the legislature; because an abuse of these powers, if guaranteed by the constitution, can be corrected by no one—not by the legislature, not by the courts—by no one. As long as the rules and regulations, as long as the procedures, are tied to the very vague sentence to secure these rights, nobody can interfere with the abuse of these powers.

What are the civil rights of education, housing and employment? Does it include the right to work? There are men here who believe it does. What would happen if the civil rights commission insisted that it did? To whom would there be an appeal? To no one. In fact, I don't know whether they would or wouldn't and I don't care. I don't oppose this matter because it is more forward looking than Mr. Bentley's. It is retrogressive. It is not forward looking. What it proposes to do is to create a commission with virtual totalitarian powers in the name of the protection of civil liberties.

I am in agreement with everything Mr. Binkowski said about the immorality of discrimination, and I am perfectly willing to do what I can to eliminate it. This will not do it. And I would remind those who think otherwise that the grant of totalitarian powers did not protect the civil liberties of the Jewish people of Germany, or the negroes of colonial Africa, or the people of Hungary. And I do not think that the grant of such powers will protect the civil liberties of the people of Michigan. It may in fact destroy them.

**CHAIRMAN MILLARD:** Mr. Martin.

**MR. MARTIN:** Mr. Chairman, I move that the committee do now rise.

**CHAIRMAN MILLARD:** Mr. Wanger.

**MR. WANGER:** I wonder if Mr. Martin might withhold his motion for just a moment, so that I may make a motion about a matter which I think ought to be carried on into the evening session?

**MR. MARTIN:** I will withhold my motion.

**MR. WANGER:** It has to do with Exclusion Report 2027. I believe that this should be further considered. And I do not wish to take the time before supper to do it, as I will have to if it's reported out. But at this point, for the purpose of holding it in the committee, I will just make the motion that we reconsider the vote by which we passed it.

**MR. MARTIN:** I will now move that the committee do now rise, Mr. Chairman.

**CHAIRMAN MILLARD:** The question is on the motion of the chairman of the executive committee that the committee of the whole do now rise. All in favor say aye. Opposed, no.

The motion prevails.

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

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Mr. Cudlip, on behalf of the members of the committee on style and drafting, requests leave for each member to be excused from the evening session so that the committee may meet this evening in room G at 8:00 o'clock.

PRESIDENT NISBET: Without objection, the request is granted. The Chair recognizes Mr. Suzore.

MR. SUZORE: I move that we recess until 7:00 p.m.

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

DELEGATES: Division.

PRESIDENT NISBET: The question is on the motion of Mr. Suzore that we recess until 7:00 o'clock. Division has been demanded. Is the demand supported? It is supported. Those in favor of the motion 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 motion to recess until 7:00 o'clock, the yeas are 52; the nays are 60.

PRESIDENT NISBET: The motion does not prevail. Mr. Suzore, do you want to try again?

MR. SUZORE: I move that we recess until 7:30 p.m.

PRESIDENT NISBET: The question is on the motion of Mr. Suzore that we recess until 7:30. Those in favor say aye. Those opposed, no.

We are recessed until 7:30.

[Whereupon, at 5:40 o'clock p.m., the convention recessed; and, at 7:30 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. 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.

[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: When the committee of the whole rose this afternoon, the consideration of section i of **Committee Proposal 71** had progressed this far: the amendment offered by Mr. Boothby to insert a new section i had been adopted by a vote of 118 to 9. To that Mr. Bentley offered a substitute. And to that substitute Messrs. Austin, Binkowski, Nord, Norris, Young and Mrs. Daisy Elliott had offered an amendment.

[The amendment was again read by the secretary. For text, see above, page 1982.]

CHAIRMAN MILLARD: At the close of the afternoon session we were on the discussion of the Austin amendment. The Chair will recognize Delegate Staiger.

MR. STAIGER: Mr. Chairman, I rise to support this amendment. In doing so, I would first like to mention, however, that I am not satisfied with the 5 man board. I think that a 4 man board, with no more than 2 from each party, has far more merit than having the 5 man board. But I am particularly interested in spelling out the duties and powers of the board.

I think—and I do not mean to take away from the other amendments—that this is a great stride in the right direction. For a number of years I have been a member of a similar board at the local level and we do not have powers or duties so that we can actually move out and accomplish anything. Believe me, it's a frustrating experience. I think that we should spell out the duties. I do not have the fear that Mr. Everett ex-

pressed in this area. This commission would still certainly be subject to the other provisions we adopted as to any administrative board, I believe. Also, starting in line 8, "It shall be the duty of the commission, in a manner which may be prescribed by law, to investigate . . ." and so forth, so that we are not leaving that completely free from the legislature. I feel that it spells out the duties and powers, and is an excellent provision, and I intend to support it.

CHAIRMAN MILLARD: The Chair will recognize the delegate from Marshall, Mr. Hatch.

MR. HATCH: Mr. Chairman, I had intended to direct a question to Mr. Binkowski, but I don't see him at the moment, so I will pass.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, it seems to me that there are an awful lot of things which all of us can support in different parts of this particular amendment, and I wondered if the question is divisible, so that we can perhaps make a more comprehensive decision on these parts.

CHAIRMAN MILLARD: This is another one of those amendments striking out and inserting, and it will have to be considered as a whole. But you can offer amendments to strike out certain parts, if you want to.

MR. KING: I'm not personally opposed to any particular part. I just thought we could give it more intelligent consideration if we could divide the question. I will pass then.

CHAIRMAN MILLARD: Miss Donnelly.

MISS DONNELLY: Through the Chair, I would like to ask Mr. Nord, if he is available, a question. He is in conference.

CHAIRMAN MILLARD: If he cares to answer.

MISS DONNELLY: The question would be: in construction of constitutional language is it not the basic law that it must be liberally construed, and not narrowly construed? And in this case—well, it's a 2 part question; would you care to answer the first point first?

MR. NORD: Did you ask a question, Miss Donnelly?

MISS DONNELLY: About narrowly construed or liberally construed constitutional language.

CHAIRMAN MILLARD: Miss Donnelly, we can't hear you up here. If you will direct your conversation through the Chair.

MISS DONNELLY: The question, through the Chair, is: in the construction of constitutional language, is it not a basic legal doctrine or tenet that the construction of the terms of any constitutional language should be liberally construed?

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: I believe that in Michigan the rule—I won't say for sure—but I believe the rule in Michigan is that it should be construed according to the fair import of its terms. I know that is the rule for statutes. I don't know for certain that that is the rule for the constitution. But so far as I know, the rule is, in Michigan, according to the fair import of its terms. I don't say that I know that for certain, but I believe that is the rule.

MISS DONNELLY: Well, through the Chair, does "fair import" mean strictly or liberally?

MR. NORD: It means neither. In other words, it is a rule which avoids strict or liberal interpretation. It is a medium rule. And that is the rule as I understand it.

MISS DONNELLY: Well, through the Chair, another question. I don't agree with you on your first rule, but far be it from me—I'm not teaching bar exams anymore. The next question I would have: if I remember correctly, earlier this afternoon you stated that the language of line 14 forward would not impute that these boards would have a right to issue subpoenas. In other words, that when they hold their hearings, administer oaths, require the attendance of witnesses and the submission of records, take testimony, issue appropriate orders and—I'm sorry, I can't read any further than that from the way it's on the board—but you would state that in your opinion this does not give them the right to do it without seeking court authority for the same?

MR. NORD: Yes. I have been so advised by my cocounsel that the language that is here only requires the board to obtain the assistance of a court. That is my understanding of it from one of the cosponsors, Mr. Norris.



MISS DONNELLY: Well, through the Chair—I realize that he is not here, and frankly I thought you were the next in authority to ask this question—this language is most disturbing to me. Because of its existence and my feeling that you are not correct in your interpretation—there's a very large area in which I think we can do this without that, and there would be no control on this—I am forced to absolutely oppose this amendment. I think there is no safeguard here to the general civil rights of citizens; that under the guise of protecting us, it can harm us. While I think we should be protected—I was a strong person on the search and seizure clause because I felt it was important that our rights not be invaded; that when we start to search and seize we must be very cautious of how we do this and how we treat citizens. I think we have been very careless in searching and seizing—in this instance I think there is no protection, and this is almost in opposition to the original language that we tried to take care of in our so called bill of rights.

I feel this is very dangerous. Rather than secure our liberties, I think in this instance we will deprive our citizens thereof. So I will have to go against this amendment because of this language, which I don't think cuts down or spells out far enough. You either went too far, or not far enough. In either instance I can't support the language because of this.

CHAIRMAN MILLARD: The question is on the Austin amendment.

SECRETARY CHASE: Mrs. Judd offers an amendment to the Austin amendment:

1. Amend the amendment by striking out all of the last paragraph.

CHAIRMAN MILLARD: The Chair will recognize the lady from Grand Rapids, Mrs. Judd.

MRS. JUDD: Mr. Chairman and members of the committee, I have the same fears that Miss Donnelly has expressed. The other day, when the matter came up, I said that I would favor a civil rights commission, feeling there would be certain safeguards in the constitution. First, that its duties would be confined to the enforcement of the civil rights listed in the declaration of rights. Second, that we would, when it comes up, pass Committee Proposal 123 giving the legislature the power to review rules of administrative agencies. And, third, leaning on the power of judicial review, which we passed a week or so ago.

Now, what I fear—and I'm not a lawyer, and I don't know whether I'm interpreting this correctly—is that in giving constitutional status to the rulemaking power of the commission, and giving it power over its own quasi judicial proceedings, we would not be able to subject the commission to these powers of the legislature and the courts. Therefore, I suggest eliminating the paragraph. Now, I'm not sure that the remainder of the provision gives the legislature power to regulate these aspects of the commission. I would hope some lawyer would look into this matter.

MR. MAHINSKE: Point of order.

CHAIRMAN MILLARD: State your point.

MR. MAHINSKE: Mr. Chairman, I think this is the third amendment in a row here. We have an amendment to an amendment now, and an amendment to this would not be in order at this time.

CHAIRMAN MILLARD: Your point is well taken.

MR. BENTLEY: Mr. Chairman, a point of order. I want to advise Mr. Mahinske that if he makes a point of order against this amendment, that I'll make a point of order against—

CHAIRMAN MILLARD: Just a minute. The Chair doesn't want any threats made on the floor. You're out of order. The question is on the Austin amendment. Judge Dehnke.

MR. DEHNKE: Mr. Chairman and members of the committee, if this ruling of the Chair is to stand, then there is nothing left for those delegates who cannot bring themselves to vote for this last paragraph except to vote against the entire amendment proposed by Mr. Austin.

I think it is clear that under this language no resort to a court before doing these various things that are listed here is required, or would be authorized. And the trouble with that

last paragraph, much as we might sympathize with the objectives of it, is that it involves one of those hearings before a body which, along with others of its type, is a representation of the prosecuting attorney acting also as judge and jury. The defect is that it goes to the extreme of not providing any means whereby the other party to the dispute can have his civil rights protected. And if a motion to strike this last paragraph is out of order, then I repeat there is no option that those of us have who have doubts about this last paragraph except to vote no on the entire Austin amendment.

CHAIRMAN MILLARD: If Mr. Mahinske insists on his point of order, the Chair will have to sustain him.

MR. MAHINSKE: I would yield to Mr. Austin at this point. I just do not see any reason why we should violate the rule. If we have a third amendment to an amendment here, it is a violation.

CHAIRMAN MILLARD: The Chair has ruled with you, Mr. Mahinske.

MR. BENTLEY: Mr. Chairman, a parliamentary inquiry.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Am I correct in understanding that the Austin amendment is in the fourth degree and the Judd amendment would be in the fifth degree?

CHAIRMAN MILLARD: No, the third degree. The Boothby amendment is now part of the proposal. The Bentley amendment is the first amendment. The Austin amendment is the second amendment. This would be the third, and we don't have them in the third degree. The question is on the Austin amendment. Mr. Austin.

MR. AUSTIN: Mr. Chairman, since Mr. Mahinske deferred to me, I would like to make it clear that although I do not agree with Mrs. Judd, I would not be opposed to her having the right to make an amendment, if this is the only reason why you do not wish her to offer such an amendment.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, if it's desired to make amendments to this, in order to give people an opportunity to vote it is possible that Mr. Bentley might want to withdraw his amendment, and let this be voted upon first. Now, I don't urge that. I just suggest the possibility.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, I make such a request.

CHAIRMAN MILLARD: Mr. Bentley, the Chair thinks, inasmuch as your amendment has not been put to a vote, nor has an amendment to it been put to a vote yet, that if you withdraw your amendment, then the Austin amendment falls. There is nothing to tie it to. Mr. Martin.

MR. MARTIN: Mr. Chairman, if Mr. Bentley withdraws his amendment and Mr. Austin reoffers his amendment, would that enable people then to consider amendments to the Austin amendment?

CHAIRMAN MILLARD: Yes, sir.

MR. BENTLEY: I renew the request, Mr. Chairman, to withdraw my amendment for the purpose stated by Mr. Martin.

CHAIRMAN MILLARD: The amendment of Mr. Bentley is withdrawn. Mr. Austin, you will have to reoffer your amendment because it is based upon the Bentley amendment.

MR. HOXIE: Mr. Chairman, a point of information. Is the Austin amendment now being offered as an amendment to the Boothby amendment?

CHAIRMAN MILLARD: The Chair hasn't found out yet. (laughter) Mr. Austin.

MR. AUSTIN: I would like to suggest that that be our posture at this point. A while back, when we were discussing the Boothby amendment, I offered at that time to propose a substitute and the ruling of the Chair was that I could not offer a substitute at that time. So I see no objection to our submitting this as an amendment to the Boothby amendment, and then it can be considered on its merits.

SECRETARY CHASE: Mr. Bentley has withdrawn his amendment, and Messrs. Austin, Barthwell, Binkowski, Nord, Norris, Young and Mrs. Daisy Elliott offer the following amendment:

1. Amend the section, after "Sec. i.", by striking out the balance of the section and inserting "There is hereby created a civil rights commission which shall consist of 5 persons, not



more than 3 of whom shall be members of the same political party, who shall be appointed by the governor 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.

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."

To this pending amendment of Mr. Austin, Mrs. Judd offers an amendment:

1. Amend the amendment by striking out all of the last paragraph.

CHAIRMAN MILLARD: We are now at the point where the Austin amendment is an amendment to the proposal, which has been adopted formally—the Boothby amendment—and the question is on the amendment of Mrs. Judd to the Austin amendment. Mrs. Judd.

MRS. JUDD: I have made my remarks.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, looking over this amendment, I know there are parts of it that some of the delegates will not wish to vote for. I simply want to state my own views in the matter. The amendment in its present form and the provisions of law which it establishes are about what I would expect the legislature to establish. They are about the same provisions that are in the fair employment practices act. I know that a lot of the delegates did not wish to put this kind of language into the constitution, and for that reason the amendment drafted by the committee—and essentially that's the same amendment as is sponsored by Mr. Bentley and was sponsored by Dr. Nord—provided that this portion of it with regard to hearings and so on should be handled by the legislature. This was as far as the committee felt that it could go in the interests of drawing the support of a good majority of the delegates in both groups here. However, I do want to say this: that this does not violate any provisions of my own conscience as far as what I would expect the legislature to provide, and I can personally vote for this without any qualms.

I do want to say, however, that the committee did not pass anything that went this far, and the committee did not urge you, and I, as chairman of the committee, don't urge you to go this far. I simply say that for those whose convictions are strong on this subject, this is not a violation of what they may feel would be proper if enacted by the legislature. The committee, as a committee, did not urge you to go as far as this amendment goes, but the provisions of it seem to be drawn in a judicious manner and in a careful manner and not to be reaching for more authority or more responsibility than would be proper if the legislature had drafted it and actually implemented it.

I might add that if this is passed, the legislature would have to implement it, and this last paragraph perhaps could properly have a phrase in it "as provided by law;" that is, promulgate rules and regulations, hold hearings, administer oaths, require the attendance of witnesses, and so on, as provided by law. Because the legislature will have to implement that. This is the barest kind of bones of authority to operate. It does not specify how, and it would undoubtedly fall to the legislature to implement this with legislation, filling in gaps as to what needed to be done.

I simply say that this doesn't violate my conscience. I don't think it will violate the conscience of a number of others. But the committee has not urged you to go this far.

CHAIRMAN MILLARD: Mr. Higgs.

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

CHAIRMAN MILLARD: Which one?

MR. HIGGS: I presume the committee chairman, Mr. Martin.

CHAIRMAN MILLARD: Mr. Martin.

MR. HIGGS: Mr. Martin, if this second paragraph is deleted, as proposed by Mrs. Judd's amendment, is there any guarantee that the legislature will act? Do you propose to support the first paragraph as it stands, without the second paragraph? Or do you propose to submit an amendment to give the governor powers?

MR. MARTIN: The governor already has powers under this because, as I understand it, this does not strike out—well, this is not an amendment to the Bentley amendment. It does not contain any powers with respect to the governor at all.

MR. HIGGS: If I understand you correctly, you have no objections to paragraph 2, is that right?

MR. MARTIN: I don't, personally, Mr. Higgs. I'm not pressing other people to go that far. That's what I was just trying to explain. I don't think that this calls for anything more than the legislature would expect to do under this provision. It's a question of how much you want to require the legislature to do, or to require it by the constitution.

MR. HIGGS: Mr. Chairman, Mr. Martin, would you say that paragraph 2 is the bare minimum that the legislature must provide in order to effectuate paragraph 1?

MR. MARTIN: I would think that's correct; that it would have to provide at least that.

MR. HIGGS: Mr. Chairman and fellow delegates, I would oppose the Judd amendment, inasmuch as these are the bare minimum powers to effectuate paragraph 1. And I sincerely feel that it is the responsibility of this constitutional convention to effectuate it. Inasmuch as we are providing for it, I think it is only fair and proper that we take that step. We will eliminate any doubt in the minds of people as to what we propose. We will assume the responsibility, instead of passing it to the legislature. I would oppose the Judd amendment.

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

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support? There is. All those in favor will vote aye, and those opposed will vote nay. The secretary will read the amendment.

SECRETARY CHASE: The pending amendment by Mrs. Judd is:

1. Amend the amendment by striking out all of the last paragraph; which reads:

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.

CHAIRMAN MILLARD: 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 Mrs. Judd, the yeas are 47; the nays are 72.

CHAIRMAN MILLARD: The Judd amendment to the Austin amendment is not adopted. Are there any other amendments to the Austin amendment?

SECRETARY CHASE: Mr. Van Dusen offers the following amendment to the Austin amendment:

1. Amend the amendment, first sentence, after "consist of" by striking out "5" and inserting "4" and after "than" by striking out "3" and inserting "2"; so that the language will read, "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. . . ."

CHAIRMAN MILLARD: The Chair will recognize Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman and members of the committee, this is a very simple amendment designed to make the commission truly bipartisan. It speaks for itself. I will say nothing further on it.

CHAIRMAN MILLARD: The Chair recognizes Mr. Hodges.

MR. HODGES: Mr. Chairman, I would rise to oppose this amendment, on the grounds that if we all remember when we

were discussing the state supreme court, one of those things that was thought absolutely necessary to do was change the even number of justices we now have to either 1 less or 1 more to make it an odd number. And I submit that the reason for that is justified; that in government you try to stop stalemate as much as possible. Now, it would certainly seem to me that it is certainly bipartisan, 3 and 2, whichever way it would be, Republican or Democratic. And I think that whoever the governing authority would be, he would be appointing responsible people, vitally interested and concerned in this field.

I appreciate the idea that is injected that both parties should be equally represented, but it would seem to me that just for the conclusion of business, whether it would be a Republican or Democratic majority, the one vote would help in those few times—and I'm certain it would be few—when there was a standoff or stalemate. I think in the interests of good government we should defeat the Van Dusen amendment.

CHAIRMAN MILLARD: Mr. McAllister.

MR. McALLISTER: Mr. Chairman, fellow delegates, what has been occurring here reminds me of the Rube Goldberg cartoons. We are having a comedy of amendments, and many of those who voted for the Boothby amendment are attempting to murder it. This doesn't make sense. I recommend the defeat of the Van Dusen amendment, and all others except the Boothby.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Mr. Chairman, I would simply urge the delegates not to adopt the Van Dusen amendment. I would certainly not think that it would do extreme harm if it were adopted; we would still have a civil rights commission. I simply state that, in my opinion—for the reasons I stated before—it is better to avoid any possibility of deadlock. There is some possibility of deadlock, and I don't see any reason why we should take that risk. Simply for that reason alone I believe we would be better off with an odd number.

We know that it was pointed out with the supreme court that we wanted an odd number. It was urged by many delegates that in the legislature it would be a good thing also if there were an odd number. It seems to me the same principle can apply here. And while this is by no means the crucial issue in civil rights—whether you have an odd number or an even number—it appears to me in any event the odd number is preferred, and I hope the delegates will leave that alone and not adopt the amendment.

MR. HIGGS: Mr. Chairman, a point of inquiry.

CHAIRMAN MILLARD: What is your point?

MR. HIGGS: The style and drafting committee is meeting in room G in the basement. There is no bell there, and we will not be on the floor. I wonder if we could be contacted in the event of a vote? I don't want to be absent from the floor without an opportunity to vote or to know that there is a vote being taken. Is there any way we can be communicated with?

CHAIRMAN MILLARD: The sergeant at arms can call you on the phone. We can't hold up the proceedings here while you are running back and forth. You have 60 seconds to get here, you know. (laughter)

MR. HIGGS: Well, a point of parliamentary inquiry. Where is my responsibility?

DELEGATES: Here.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I would rise to support the Van Dusen amendment. I do so for this reason. I don't think that we are talking about the legislature here, or a court. At least, I hope that's not what we have in mind. We have a system for legislation, and a system for justice in our court system. This is a commission. I liken it, as have many other delegates, to the civil service commission. The civil service commission is a 4 man commission, it is bipartisan, with not more than 2 from either party. During our investigation of the activities of the civil service commission the members of the subcommittee which concerned itself with this problem inquired at length as to whether or not there had ever been a problem having 2 Republicans and 2 Democrats on the civil service commission. And we were informed

that at no time during the past 20 years has this created a problem.

Now, what we are talking about here, I hope—anyway, I believe we are—is a truly bipartisan effort to do something constructive in this particular area. And it seems to me that the only true bipartisan commission is one made up of 2 Republicans and 2 Democrats. And when it is 3 out of 5, either way, either Republican or Democrat, then as far as I can see it's no longer bipartisan. It is only bipartisan in a token sense, and not in a real sense. So I strongly urge the support of the Van Dusen amendment.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I want to support the Van Dusen amendment, because this would put the matter back in the same form as it was provided in the Bentley amendment. And this is the form that we have for the state highway commission.

The purpose is very simple, and that is not to have a predominant majority of one party on one side or the other of this thing. As a matter of fact, it's extremely unwise, and it would certainly create suspicion if the commission were made up of a majority of one party or the other. This is a particularly sensitive area. When they are on that commission they won't act as party members. But it will afford a feeling of confidence to both parties to have both parties equally represented.

CHAIRMAN MILLARD: Mr. Young.

MR. YOUNG: Mr. Chairman, I would like to ask Mr. Van Dusen a question, through the Chair, if I may.

CHAIRMAN MILLARD: If Mr. Van Dusen cares to answer.

MR. YOUNG: Mr. Van Dusen, if your proposed amendment should pass, would you then support the amendment that is on the board?

MR. VAN DUSEN: Yes, sir.

MR. YOUNG: Thank you.

CHAIRMAN MILLARD: The question is on the Van Dusen amendment. Mr. Austin.

MR. AUSTIN: Mr. Chairman, we don't have any strong feelings about the amendment proposed by Mr. Van Dusen. I think Dr. Nord made it rather clear that if you don't have a 5 man commission you may have a deadlock. And our principal reason for making it a 5 man commission was to prevent deadlocks. But if it is the feeling of the delegates that a 4 man commission is satisfactory, we won't argue too strongly about it.

CHAIRMAN MILLARD: Mr. Brown.

MR. T. S. BROWN: Mr. Chairman and fellow delegates, I personally support the Van Dusen amendment, on the basis of what Mr. Van Dusen has just stated on the floor. I believe he has concurred in what Mr. Martin has said and what Mr. Bentley has said previously in regard to this total package of 2 paragraphs here, the second paragraph of which we obviously want included in order to make it an effective package and a self executing type of operation. I think therefore the matter of bipartisanship is not too important in this regard. And, certainly, in speaking for my fellow Democrats, if there were a Republican governor we should not mind to have 2 Democratic members on the civil rights commission, and vice versa. I do not think this is asking a lot. I think it is more than fair, and on the basis of the previously made statements on the floor, I'm going to vote for the Van Dusen amendment.

CHAIRMAN MILLARD: Mr. Everett.

MR. EVERETT: Mr. Chairman, this is sort of a parliamentary inquiry. Do you have a right to explain why you abstain in the committee of the whole?

CHAIRMAN MILLARD: The Chair thinks that applies only in the convention. Mr. Bledsoe.

MR. BLEDSOE: Mr. Chairman, for the purpose and for the reasons stated by Mr. Van Dusen, I would be very happy to support his amendment.

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

DELEGATES: Division.

CHAIRMAN MILLARD: Division is called for. Is there support? There is. All those in favor of the Van Dusen amend-

ment 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. Van Dusen, the yeas are 73; the nays are 40.

CHAIRMAN MILLARD: The amendment is adopted. The secretary will read.

SECRETARY CHASE: Mr. Martin offers the following amendment to the Austin amendment:

1. Amend the amendment, second paragraph, first sentence, after "power" by inserting "pursuant to law"; so that the sentence would read, "The commission shall have the power pursuant to law to promulgate rules and regulations, hold hearings, administer oaths, . . ."

CHAIRMAN MILLARD: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. Chairman, I offer this amendment simply to clarify and to put into the amendment the statement which I made regarding the power to promulgate rules and regulations, hold hearings, and so on. It is not contemplated, I'm sure, by the proponents of the amendment, to give the commission an absolute freewheeling right to promulgate any rule or regulation, or provision with regard to hearings, or of the administering of oaths, and so on, which it may please. These things are all regulated as to how they should be done, and how hearings should be held, and so on, by legislative provision. This limitation is not in any way designed to prevent them from doing those things, but it is designed to require that they be done in accord with normal provisions. That's all that it's intended for, and I present it on that basis.

MR. DOWNS: Point of information, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Would you ask the secretary to read the amendment again, please?

CHAIRMAN MILLARD: The secretary will read.

SECRETARY CHASE: Mr. Martin's amendment is:

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

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

MR. AUSTIN: Mr. Chairman, Mr. Martin, I have a fear that what you are proposing will tend to remove the self executing aspects of this amendment. The first paragraph is self executing, but it is not fully executing because there are no powers spelled out in the first paragraph. If we include your language in the second paragraph, we will in effect be saying that this commission will not be able to operate until the legislature prescribes its powers. What we have attempted to do here is to give the commission powers whether the legislature acts or not. This is a rather substantive change, and I'm not quite sure that it is one we would be willing to accept at this time.

There is one other possibility which I might suggest, and that is, instead of inserting the language that you have added, we might add at the end "except as provided by law."

CHAIRMAN MILLARD: Are you asking a question of Mr. Martin?

MR. AUSTIN: Yes. I want to know how he feels about the suggestion I have made.

MR. MARTIN: Mr. Chairman, I think the effect of those 2 provisions is similar. I think, however, it would have this difference: that they might proceed, unless the legislature passes something to the contrary. I am inclined to feel that this is a little better language, and that there ought to be some procedures for getting this thing into effect; that they ought not to freewheel on it. And for that reason I would think I would prefer my own language there.

MR. AUSTIN: Mr. Chairman, Mr. Martin, our problem has been that the legislature has refused to act in this area, and what we are trying to do at this convention is to establish a civil rights commission. But we are not preventing the legislature from acting. We are saying that if the legislature does not act, we will have a civil rights commission. And I think that this is the posture that the convention ought to

assume, if we are sincere about having a civil rights commission, and not being obstructed by the legislature. We certainly want whatever we can get from the legislature, but we do not want to be obstructed by it. So I think it would be better and, Mr. Chairman, I will propose this as a substitute for Mr. Martin's amendment.

SECRETARY CHASE: Mr. Austin offers the following substitute for Mr. Martin's amendment:

1. Amend the amendment, second paragraph, at the end thereof, after "commission" — is this where you want it, Mr. Austin?

MR. AUSTIN: That's right. Right at the end of the paragraph.

SECRETARY CHASE: At the end of the paragraph. Mr. Martin's amendment is to insert, in the first line of the paragraph, after the word "power" the words "pursuant to law." Mr. Austin's substitute amendment is:

1. Amend the amendment, second paragraph, at the end thereof, after "commission" by inserting a comma and "except as provided by law".

MR. MARTIN: Mr. Chairman.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: I would like to make one further comment. My amendment gives the commission power to do the things, specifically, and in effect directs the legislature to provide the procedures for doing them. I think it does what should be done there, and provides a reasonable safeguard. I would hope that Mr. Austin's amendment would not carry.

MR. YEAGER: A parliamentary inquiry, Mr. Chairman.

CHAIRMAN MILLARD: Mr. Yeager.

MR. YEAGER: For the sake of consistency, and so we know a little what we are doing, it was my impression that the first Austin amendment was an amendment to the Boothby amendment. The Martin amendment was 2, and the second Austin amendment was the third. Isn't this the third order?

CHAIRMAN MILLARD: That is under discussion right now, Mr. Yeager. This is the first time the Chair has seen it. It looks to the Chair as though this is not a substitute for the Martin amendment, and therefore the Chair will rule it out of order until we can act on the Martin amendment.

SECRETARY CHASE: The question is on Mr. Martin's amendment:

1. Amend the Austin amendment in the first line of the second paragraph, after "power" by inserting "pursuant to law" so the language will then read, "The commission shall have the power pursuant to law to promulgate rules and regulations, hold hearings, administer oaths, . . ."

CHAIRMAN MILLARD: The Chair recognizes Mr. King on the Martin amendment.

MR. KING: Mr. Chairman and fellow delegates, I rise to support the Martin amendment. I think that these several words make it possible for all of us who are concerned about this problem to support this whole amendment; and it seems to me that this is a very necessary safeguard which, you might say, has to be put in there for the protection of the civil rights of all of us. I think here that we have perfected this amendment to the extent where it is meaningful. There certainly is a constitutional mandate for these powers to be given by the legislature—and I frankly think that they will be provided—and yet at the same time we have not infringed upon the lawmaking power of the legislature to an extent where many of us in good conscience could not otherwise support this amendment. So if the Martin amendment is passed, I for one will support the amendment, as amended. I think that this is very necessary, and once it is in there it makes the whole amendment an excellent amendment, and one that we can all support.

CHAIRMAN MILLARD: Mr. Higgs.

MR. HIGGS: Mr. Chairman, I would like to direct a question to Mr. Martin, if I may.

CHAIRMAN MILLARD: Mr. Martin.

MR. HIGGS: I would like to ask this question, Mr. Martin. There seems to be no question that by your amendment you would reduce this amendment to a non self executing proposition. In other words, it would require the legislature to act before the commission would have any of these powers. Now,

that being true, do you intend to amend this proposition further to place the power in the executive or in some other way to force the legislature to act?

MR. MARTIN: Mr. Chairman and Mr. Higgs, I think if this amendment were passed—I have already said I'm satisfied with it, but I think others might be satisfied with this as it stands, without requiring the executive to be brought into this picture. I think that this makes it clear that the commission is to have the power to issue appropriate rules and regulations, to hold hearings, to administer oaths and to require the attendance of witnesses, and that all that this phrase "pursuant to law" does is to require that this follow some legitimate type of procedure in getting these into effect, in promulgating them. I think that that's what it does. So I would vote for the whole thing, with this, without being concerned about having the executive in this picture.

MR. HIGGS: Mr. Chairman, Mr. Martin, I don't understand. Do you agree that this would be non self executing?

MR. MARTIN: I agree that the legislature would need to do something to implement the way in which hearings are held, and so on. But I think it would be perfectly clear that the legislature was under the requirement to make such provisions, and that it could not pass a law which didn't provide for the holding of hearings, or perhaps didn't provide for the attendance of witnesses, and so on.

MR. HIGGS: Mr. Chairman, Mr. Martin, if the legislature does not act, how can the legislature be forced to act?

MR. MARTIN: Well, we are taking that possibility into account in many things that we are doing here in the convention. I think that this provision, the Austin amendment, goes a good deal farther than I had contemplated going, but I think that with the proviso that I have added it is a sound amendment, and I don't see how the legislature can refuse to provide the procedural implementation that is required here.

MR. HIGGS: Well, Mr. Chairman and fellow delegates, I don't know. I am confused here. As I said yesterday, if I were going to sit down to draft a provision for a civil rights commission, I would need a little time, because this is not my field. Inasmuch as I think that the purpose, or the direction in which we are going—if we honestly want to recognize the direction—is to spell it out in the constitution, I would yield to the judgment of the proponents of this amendment, Mr. Austin and Mr. Nord, as to whether or not this will accomplish the purpose.

But it seems to me that Delegate Martin has reversed positions, inasmuch as previously he wanted to force the legislature to act by placing the power in the executive, which I objected to, and I would not want to see us go further by incorporating this particular provision and then have Mr. Martin or another proponent of the committee ask us to place the power in the executive in order to force the legislature to act. I am perfectly willing to give the commission the power in the first instance in the constitution, as long as we have gone that far.

CHAIRMAN MILLARD: The Chair recognizes Dr. Nord.

MR. NORD: Mr. Chairman, I rise to oppose the amendment now before us. It appears to me that no affirmative purpose can be served by adding the words "pursuant to law." Some purpose might be served, but it could not be an affirmative purpose, by adding the words "pursuant to law." As I understand those words, pursuant means following. Pursue means to follow, and pursuant means following. That means following the enactment of law to this effect, that is, law providing these various different powers, then the commission shall have those powers. Now, that is an absurdity. If you say in the constitution that if the legislature shall provide the following powers to the civil rights commission, then the civil rights commission shall have those powers, what have you said? You have said a lot of nonsense.

I think, as much as we wish to get this amendment adopted, we can't overlook the facts. And the facts are that the entire last paragraph will be wiped out and all you will have left over is a fond remembrance and a residue. You might say you would be making an ash of the last paragraph. The last paragraph will not be there. The first word and the last word will be there. It will be a hollow shell.

It will be the same thing as if you were to say that the legislature shall grant the following powers, period. You could say that the legislature shall grant, but you can't make the legislature grant. If you wish the legislature to grant certain powers, you have it in your power right now to grant those powers yourself. Just say so. And don't say that somebody else should. If you tell the legislature, "Why don't you give those powers to the civil rights commission?" they will just say to you, "If you're so brave, why don't you do it?"

As I say, I can't see what purpose is added by these words. I can certainly see what purpose is subtracted by them. And it seems to me that although I have been importuned left and right by various proponents of this measure who are dying to get this proposition adopted one way or another, and I don't say necessarily that all of the proponents will necessarily come to the same conclusion, but I say that this particular amendment before us cannot serve a useful purpose. It can serve a harmful purpose. Nothing can be gained by adding it. It should not be added. I urge the delegates to consider carefully what value we will get out of this last provision, out of the last paragraph. And when you conclude, as I think you will, that there is no purpose to it, you should decide to oppose the amendment now pending.

CHAIRMAN MILLARD: Mrs. Judd.

MRS. JUDD: I would like to say first that I would feel satisfied about the original amendment with this amendment of Mr. Martin's. I would like to say secondly that it takes a lot of courage to disagree with Professor Nord, but I don't think I agree with him on the point that it is quite the same thing for us to put this power into the commission in the constitution rather than asking the legislature to do it. When the legislature can do it, the people of Michigan still have an opportunity to change what the legislature does. When we put it in the constitution, it is a pretty difficult job to change it.

With regard to Mr. Martin's amendment in comparison with Mr. Austin's phrase at the end, this is a conflict in substantive power doctrine which we met up with in the local government committee, and I find that what is known in municipal affairs as the Fordham doctrine—that is, in this case it would be giving the commission the power to determine its own rules and regulations, subject to a veto by the legislature—there are many people in the country concerned with the increase of municipal powers who have some doubt about this doctrine, on the theory that the legislature could veto anything they wanted to at any time. And it might in the long run weaken the commission even more than Mr. Martin's amendment would do.

CHAIRMAN MILLARD: Mr. T. S. Brown.

MR. T. S. BROWN: Mr. Chairman, fellow delegates, Dr. Nord has said substantially what I was going to say, except that I think perhaps it is more easily understandable, especially to Mrs. Judd, if this particular terminology of Mr. Martin's is explained from the point of view of one of the first tricks you learn as a lawyer. That is, when you are dealing with documents and you represent a client whom you are trying to conserve, let's say, in making concessions to the other party, documentarywise, you will say, "We will give you everything that you ask for, according to the terms of this document." And then in the specifics of the document you proceed to cut the heart out of what he thinks he is getting in the bland and broad terminology.

This particular phrase "pursuant to law" is one of the classic legal phrases you use in documents. "Pursuant to this agreement," or "pursuant to our prior understanding," or something of that nature, which actually means nothing. It is one of these little mechanisms by which broad grants are given and then taken away. I think if it is understood in that vein, then you will see that the ultimate purpose, as Dr. Nord has said, is to render the second paragraph valueless.

CHAIRMAN MILLARD: Mr. Barthwell.

MR. BARTHWELL: Mr. Chairman, fellow delegates, I have been very patient on these maneuvers, because I have been skeptical, I must admit, from the very beginning. Truthfully, I want this commission as badly as anybody, but if I

get it, I want to have something. We sit down, we work on it, and we put the words in it that give us something, and now my good friend, Mr. Martin, comes along and puts the words in it which take it all away, unless this same legislature that we have been trying to get something from for the past 10 years gives it to us. I say this is absolutely nothing if you're going to put this phrase in here that we've got to depend on the legislature to get it. Therefore, I would urge you very strongly to vote against Mr. Martin's amendment.

**CHAIRMAN MILLARD:** Mr. Romney.

**MR. ROMNEY:** Mr. Chairman and delegates, it seems to me that the Austin amendment here renders a real service in getting us away from the Rube Goldberg type of approach we had earlier where we were trying to combine the legislative and executive power in order to get action on this problem that is an acute problem and which must be dealt with, and should be dealt with promptly.

It seems to me that the Martin amendment clearly vitiates the self executing aspects of the Austin amendment, and if it should prevail it would be necessary to reoffer the provision authorizing the governor to issue an executive order in order to be certain of the action that is needed under these circumstances. And that would put us right back into the unfortunate position of trying to combine legislative and executive authority to handle a problem that is acute. For that reason, I oppose the Martin amendment, and urge its defeat, and the subsequent adoption of the amendment offered by Mr. Austin, which was technically out of order, but can be reoffered, as I understand it, following the defeat of the Martin amendment. Consequently, I hope that we can take that action and thus have a simple, clean-cut situation where the legislature is going to perform its proper functions, but where there will be a self executing meeting of this problem.

**CHAIRMAN MILLARD:** Mrs. Daisy Elliott.

**MRS. DAISY ELLIOTT:** Mr. Chairman, fellow delegates, as one of the proponents of the Austin amendment and one of the proposers of a civil rights commission on the executive committee, I would like to oppose the Martin amendment. It was our intention that this commission should have self executing powers. Many delegates have asked us to spell out in detail the necessary provisions for a meaningful civil rights commission.

Also, it has been brought to our attention that the legislature should not be held responsible to do that which has been proven a necessity for inclusion in the constitution. As Mr. Higgs, Mr. Cudlip and others on this floor have stated, the civil rights commission should be spelled out in the constitution. This language here, without the Martin amendment, is language that was offered to this convention through previous proposals. During this session we have heard many distinguished delegates to this convention stand proudly on the floor in support of the highway commission, granting certain duties and delegated powers, and may I remind those of you who sought support of that commission that a civil rights commission should not be held second to a highway commission or a civil service commission.

It must be remembered that we are dealing with the rights of human beings, which are far more fundamental and far-reaching and subject to emotional and political evaluations than the matter of your highway commission. I sincerely hope that the delegates at this convention who are sensitive to the basic importance of civil rights in our community and natural life would rise above any differences created here and provide the strongest provisions possible for the protection of those rights. I assure you that it is not the highways that are in need of a commission. The human beings here are the ones that need a commission. And as Mr. Brake so eloquently stated here on the floor while discussing Committee Proposal 88 on local government, the matter being under discussion was detailed and statutory, but it was a dignified way to meet the problems that everybody is trying to solve. I suggest to you, Mr. Chairman, that the same reasoning may be applied to this amendment. Ladies and gentlemen, I urge you to support the Austin, et al, amendment and defeat the Martin amendment.

**CHAIRMAN MILLARD:** Mr. Marshall.

**MR. MARSHALL:** Mr. Chairman and fellow delegates, there have been a lot of words spoken on the floor of this convention tonight, and many an amendment offered. It seems that most of us in this convention are in accord on the civil rights commission provision. It seems to me that we have been shooting a lot of mice with these amendments while the elephants were all tramping by. I think that you should take note of the words that Delegate Romney spoke just a few moments ago. I don't hesitate to say that I subscribe to those words, too. I think that Delegate Romney made a lot of sense on this issue, and I think he got to the meat of it. I'm not trying to put words into his mouth, but I think what he was trying to say, but in different words than what I'm using, is to stop shooting the mice, get on with the elephant hunt, and let's quit talking out of both sides of our mouth. It is here before us, and we are either for it or against it. And I, too, urge the defeat of the Martin amendment and urge the support of the Austin amendment. Thank you.

**CHAIRMAN MILLARD:** Mr. Martin.

**MR. MARTIN:** Mr. Chairman, I am just as concerned as anybody else to see if we can reach something that doesn't do what some people are afraid of and does what other people want to accomplish here. What I'm trying to accomplish is to find some phrase or wording which will make the activities of this administrative agency subject to the same limitations as other administrative agencies. I'm not trying to prevent them from doing anything that is provided here; neither do I want them to be completely freewheeling as far as doing anything they please.

I have another phrase here which I will suggest, and that is, instead of "pursuant to law," a phrase which is a legal word of art, "pursuant to general law applicable to administrative agencies." Now, what I'm getting at there are the rules for filing your rules and regulations, the general rules applicable to the use of subpoenas, how they can be used, and so on. I think that this might meet the concern and objections of both parties.

Mr. Chairman, if I might, I would like to ask Mr. Austin to consult with his lawyers on the other side of the fence here and see if we don't have something that might meet both problems.

**CHAIRMAN MILLARD:** Mr. Austin.

**MR. AUSTIN:** Mr. Martin, I have not had an opportunity to check with my legal counsel—

**CHAIRMAN MILLARD:** Just a moment. Just talk to the amendment.

**MR. AUSTIN:** I will. Thank you, Mr. Chairman. But I wonder if you would not accept some language that Arthur Elliott and I have gotten together. Instead of the words that you have suggested, why not insert "except as otherwise provided by law?" Now, what we are doing with this language is simply saying, "The commission shall have power, except as otherwise provided by law, to promulgate rules and regulations," and so on, the thought being that the commission would have these powers unless the legislature provided otherwise.

**MR. MARTIN:** Mr. Chairman, Mr. Austin, would you accept—

**CHAIRMAN MILLARD:** Why don't you fellows get together here, and not do it across the hall?

**MR. AUSTIN:** Mr. Chairman, I'm not sure I understand what you are suggesting.

**CHAIRMAN MILLARD:** You are trying to make an amendment here across the hall. Why don't you go and consult with him and get together?

**MR. AUSTIN:** I will be very happy to do that. I don't want to hold up the proceedings.

**MR. MARTIN:** Mr. Chairman, I can't move to recess. If the committee were willing to rise, I would move that they rise for 15 minutes.

**CHAIRMAN MILLARD:** Is that a motion?

**MR. VAN DUSEN:** Mr. Chairman, may I simply suggest that the committee stand at ease for 5 minutes?

**MR. MARTIN:** Could we do that, Mr. Chairman?



CHAIRMAN MILLARD: When you stand at ease, you know what that means in the army; you keep one foot in place. (laughter)

[Whereupon, the committee of the whole stood at ease for 5 minutes.]

The committee will be in order. The Chair will recognize Mr. Martin.

MR. MARTIN: Mr. Chairman, I should like to withdraw my amendment and offer the following amendment. I don't have it quite prepared here in typed form, but I offer the following amendment at the end of the last paragraph of the Austin amendment, to read "except as otherwise provided by law or this constitution."

CHAIRMAN MILLARD: Mr. Martin has withdrawn his amendment and submitted another. The secretary will read.

SECRETARY CHASE: Mr. Martin's amendment now is:

1. Amend the amendment, second paragraph, at the end thereof, after "commission" by inserting a comma and "except as otherwise provided by law or this constitution"; so the language will read:

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.

CHAIRMAN MILLARD: The Chair recognizes Mr. Martin.

MR. MARTIN: I think that this wording, Mr. Chairman, covers the problem that we were struggling with. It will make it possible to reverse any actions which the commission might take, and it also makes it clear that the various provisions of the constitution limiting the activities and governing the activities of administrative agencies, making sure that there is adequate due process in their operation, are observed. And that is the substance and purpose of my amendment, to see that this agency does not operate in any manner different from other agencies, or with any more sweeping powers, or any powers which would violate the provisions of due process.

CHAIRMAN MILLARD: The Chair recognizes Mr. Allen.

MR. ALLEN: Mr. Chairman, I rise to support the proposed amendment. I think it might be helpful to say that we have had 3 positions here tonight. The first position was the position of the Austin amendment standing alone. Very frankly, that worried me, because we were simply putting into the constitution, without any other language at all, some very broad powers to compel witnesses to attend, to issue subpoenas, to take testimony —

CHAIRMAN MILLARD: Mr. Allen, let's keep to the amendment, so that we can get on. You will have a chance to discuss the Austin amendment a little later.

MR. ALLEN: I feel, Mr. Chairman, that I can explain this in this manner. The other position which we had was that nothing would happen unless the legislature acted, and that was the Martin amendment. Now we have this third one, definitely on point, which is that the powers are granted, but in effect they are subject to being taken away by the legislature.

Now, of these 3 positions, I think — under the circumstances which we have — that this third one is the best of the 3. I know that it is subject to the objection that if the powers are granted subject to being taken away by the legislature or delimited and as prescribed by the constitution, that the objection will be made that if the legislature should pass laws which will limit the powers of this commission, that they would then be vetoed by the governor, and then nothing which would delimit or describe or implement the powers of the commission would be able to be passed. But I suggest that a governor who is elected by all of the people of the state is going to be very conscious of prevailing public opinion, and I think a governor would hesitate a long time before going too far and vetoing reasonable legislation.

We have a choice to make here. We either have to do it this way, or we have to do nothing — and I certainly think

that would be very bad — or we have to say that nothing happens until the law is passed in the first place. I think we are near the solution of this problem, and I favor this amendment.

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: Mr. Chairman and members of the committee, the language that has been suggested by Mr. Martin is exactly the same as that which Mr. Elliott and I prepared, and I will accept his language and recommend that the committee adopt it.

CHAIRMAN MILLARD: Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman, ladies and gentlemen, my convictions on the civil rights problem are well known to all of you, and I shall not restate them now. The real issue again this evening is whether we really want to make progress in this matter of civil rights, or whether we want to approve some words that will make us feel good, but really accomplish very little in the way of progress. I urge all of you to approve the Martin amendment, or whatever we are going to call it, and then finally the original amendment before us, and get on with our work.

CHAIRMAN MILLARD: Judge Dehnke.

MR. DEHNKE: Mr. Chairman and fellow delegates, I realize that those of us who are a bit doubtful about some of the things that are proposed on this subject are placing ourselves in line for a misinterpretation of our motives and our sincerity. I have only to add to what Mr. Allen has said. Adopting the amendment now before us means simply this: that the commission can exercise all of the powers granted to it here without restraint, and without accompanying protections for the respondent, unless 2/3 vote can be obtained in both houses of the legislature to overcome a governor's veto.

CHAIRMAN MILLARD: Arthur Elliott.

MR. A. G. ELLIOTT: I will pass. Mr. Austin said it.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I think we have reached a point where I hope we can all be in agreement. I would just like to comment very briefly on what Judge Dehnke said. Of course this is true if you assume that the governor will not act judiciously in the matter. But, certainly, if the legislature proposes reasonable restraints, I am hopeful and of the opinion that a governor would not veto such reasonable restraints. Anyone who is concerned about the civil rights of a few has to be concerned with the civil rights of all of us; and I frankly am hopeful that this amendment, as perfected, can be passed by an overwhelming majority.

CHAIRMAN MILLARD: Mr. Downs.

MR. DOWNS: Mr. Chairman, I would like to rise very briefly in support of the amendment. I believe this is a milestone in the convention. I believe it does demonstrate that we can protect civil rights and protect the concept of due process.

To our good friend Judge Dehnke I would only add that our concepts of due process are maintained; our process of judicial review is maintained. I believe that this will get the initiative in the positive field of civil rights. It will provide adequate judicial review for any activities. I strongly urge the support of this amendment.

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

The amendment is adopted.

DELEGATES: Division.

CHAIRMAN MILLARD: Division is called for. Is there support? There is a sufficient number. The question is on the Martin amendment. All those in favor will vote aye, and 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 Martin amendment, the yeas are 81; the nays are 35.

CHAIRMAN MILLARD: The amendment is adopted. The secretary will read.

SECRETARY CHASE: Mr. Everett offers an amendment to line 4 of the Austin amendment:

1. Amend the amendment, first paragraph, first sentence, after "governor" by inserting a comma and "with the advice and consent of the senate."

**CHAIRMAN MILLARD:** The Chair recognizes Mr. Everett.

**MR. EVERETT:** Mr. Chairman and fellow delegates, I'm going to admit that the motives behind this amendment are about 75 per cent base. I oppose the Austin amendment with every fiber of my soul. If we've got to have it, then let's have it with this. Let me give you an example of why I oppose this. I send my children to a parochial school. Does the civil right of education mean that I may not? Who in this place can tell me that it means I may not? A civil rights commission of 5 men can tell me that it means I may not.

Now, I'm old enough to remember in 1933 when a bunch of well meaning men grouped themselves around an ancient and honorable and semi senile general and said, "Don't worry about that guy with the funny mustache; make him chancellor." And I submit that that's what we are doing here. I don't think that there are 5 Hitlers in Michigan, I'm sure that there are not. But I'm afraid there are 3, each one 1/3 as base as that man, and I will not vote for any measure which permits a governor, unimpeded, to name 3 men, each 1/3 as base as that. And I think that's exactly what the Austin amendment tells us we may do.

If we must do it, then at least let us put some check on total dictatorship in a field of what you gentlemen call civil rights, but I call the very fundamental rights of every citizen of this state. I intend to vote for this amendment, and whether it's carried or whether it isn't, I intend to vote against the Austin amendment.

**CHAIRMAN MILLARD:** The Chair recognizes Mr. Hodges.

**MR. HODGES:** Mr. Chairman, I oppose the Everett amendment, and I believe Mr. Everett has just conjured up a parade of horrors that doesn't exist. He talks about his children going to a parochial school. There are supreme court decisions, and I believe United States supreme court decisions, upholding the right of children not to attend public schools, but to go to parochial schools of their choice. This is their right under the constitution of this state and the constitution of the United States, under freedom of religion. The sole interpreter of constitutional law remains and still is the supreme court of the state of Michigan of the Michigan constitution and the United States supreme court of the federal constitution.

We have written into this constitution at this date the strongest of appeal rights from administrative decisions of any constitution in the United States. It is even so strong that many of us have certain reservations about portions of it. We have written into the bill of rights for the first time—and only 2 states of the union have this—that people appearing before administrative agencies and executive agencies shall be afforded fair and just treatment. I submit that the argument that Mr. Everett makes does not exist; that all the rights that an individual has and his appeal rights are still upheld; that this is no stronger than any other administrative agency in the state of Michigan. For this reason I oppose the Everett amendment.

**CHAIRMAN MILLARD:** The Chair recognizes Mr. T. S. Brown.

**MR. T. S. BROWN:** Mr. Chairman, fellow delegates, I sympathize, from a humanitarian point of view, with the obvious emotional quality of Mr. Everett's remarks. I agree with him that such things as he indicated he was fearful of should not happen. But I think, basically, perhaps we misunderstand the general classification of the type of commission that we are dealing with. As you know, among commissions in our society, be they at the state or federal level, there are generally speaking 2 types. One type is to protect the society against certain transgressions of the individual, and this commission of course is the type that issues licenses, passes regulations, and such, generally in regard to public safety. There are other types of commissions—and the civil rights commission is prime in this category—which are established for—

**CHAIRMAN MILLARD:** Mr. Hatch.

**MR. HATCH:** Is not the sole question before us Mr. Everett's amendment; namely, advice and consent of the senate?

**CHAIRMAN MILLARD:** You are right. Confine yourself to the Everett amendment, please.

**MR. T. S. BROWN:** If you'll give me about 10 seconds, I'll be there, Mr. Hatch. There are other types of commissions

which are designed to protect the individual against societal transgressions, and this is precisely this type of commission.

Now, I should think the method of approval by the senate of certain gubernatorial appointees is designed to prevent an obvious rash of appointees who are completely one sided from the point of view of political philosophy. And when we acceded, and I think justly so, to the amendment offered by Mr. Van Dusen which made this truly a bipartisan board, I think we obviated the need for any further amendments and concessions to the senate in that regard. Therefore I oppose the Everett amendment.

**CHAIRMAN MILLARD:** The Chair recognizes Mr. Bledsoe.

**MR. BLEDSOE:** Mr. Chairman and members of the committee, both as a lawyer and as a citizen of this community and of this commonwealth, I share every apprehension that has been expressed by the opposition to this amendment. I know how you have regarded Judge Dehnke here in our committee. But I think that we have overlooked one thing. I'm going to call your attention to Committee Proposal 95:

All final decisions, findings, rulings and orders of any administrative officer or body existing under the constitution or by law, which are judicial or quasi judicial and affect private rights, privileges 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 reliable, probative, and substantial evidence on the whole record.

Now, this proposal was passed. It came out of the judiciary committee, and my good confrere and brother of the bar voted for it, and he understands all about it.

I submit it will soon be coming up on second reading, and if there's any further or other misapprehension as to whether or not any circumstance might in any way infringe or modify the rights of any citizen under this law, we'll still have jurisdiction over this proposal; and I submit that even as it now stands it will protect the appearance of any property right or personal or private right commensurate with any administrative tribunal. Now, we have passed this, and it is a part of the records of this convention.

**CHAIRMAN MILLARD:** Mr. Downs.

**MR. DOWNS:** Mr. Chairman, fellow delegates, I rise in opposition to the amendment. I want to make it very clear that I completely respect Delegate Everett's candor in his presentation, and realize that there is a very genuine concern. I did support both the Van Dusen and Martin amendments, respecting the concern of the individual delegates as much as the problem. I do feel that the advice and consent concept might severely weaken the splendid job we have done. I urge that we vote down this amendment and support the amendment as it stands. Thank you.

**CHAIRMAN MILLARD:** Mr. Karn.

**MR. KARN:** Mr. Chairman and members of the committee, I rise merely to express my support to the Everett amendment.

**CHAIRMAN MILLARD:** Mr. Bentley.

**MR. BENTLEY:** Mr. Chairman, we have had a very heartening display of bipartisanship on this area up until now. I imagine on this amendment that may be somewhat strained. I hope it is resumed thereafter. I rise in support of the Everett amendment, and remind the committee of the whole of another portion of the same proposal regarding the definition of advice and consent, which reads as follows:

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.

I respect the feelings of my friends on the other side of the political aisle in this committee. They have opposed the advice and consent proviso in other respects. They can only be consistent here. I maintain that the majority of this committee has voted in the advice and consent proviso for other

executive appointments throughout this proposal. I suggest that we should be consistent in this respect as well.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, when Mr. King offered his original amendment it contained the advice and consent provision. I suggested at that time that he withdraw it in order to let Mr. Bentley offer his amendment, which did not contain it, with the understanding that it would be offered, and that the majority would take the responsibility for voting for it if the minority felt it could not. On that basis, I then also suggested that if they wanted to consider the Austin amendment first, Mr. Bentley might withdraw his amendment. I certainly think that it has been clear from the beginning that whatever bipartisanship there may have been involved also the knowledge that we wanted and intended, if possible, to have this provision in this particular portion of the constitution, and I support Mr. Everett's amendment.

CHAIRMAN MILLARD: Judge Leibrand.

MR. LEIBRAND: Mr. Chairman and delegates, I rise to concur in the remarks of Judge Dehnke and Delegate Everett. I will vote for the Everett amendment and against the Austin amendment.

CHAIRMAN MILLARD: Mr. Wanger.

MR. WANGER: Mr. Chairman, members of the committee, I support the Everett amendment, and in doing so I would like to suggest to the members of this committee that the question of advice and consent of the senate is in no way a civil rights issue. It is an issue which has created a lot of discussion as a general principle. But if we look at this amendment as a whole, we see that what it does is to replace any and all other commissions dealing with the problems of civil rights in the state of Michigan, including the fair employment practices commission.

I have before me the statute of the fair employment practices commission, which says that the members shall be appointed by the governor by and with the advice and consent of the senate. It is also provided that that is a bipartisan commission. Now, I haven't heard anyone on this floor say that the fair employment practices commission is not doing a good job. And it seems to me that any fears that the delegates have expressed with respect to action or inaction by the legislature do not apply to this area, and I therefore suggest that you vote on this on your convictions, but with the conviction that advice and consent of the senate is not a civil rights issue.

CHAIRMAN MILLARD: Mr. Barthwell.

MR. BARTHWELL: Mr. Chairman, I would like to ask Delegate Everett a question, if I may, through the Chair. I didn't understand exactly all of his comment.

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

MR. BARTHWELL: Delegate Everett, I just wanted to be sure that I understood you correctly. Did you say that you would not vote for the amendment even if we voted for your amendment?

MR. EVERETT: That's right, Mr. Barthwell, I will not.

MR. BARTHWELL: Thank you. Therefore, ladies and gentlemen, I see no point in us voting for it if it isn't going to change his position. I urge you to vote against the amendment.

CHAIRMAN MILLARD: Mr. Heideman.

MR. HEIDEMAN: Mr. Chairman, ladies and gentlemen of the committee, this has been truly an historic day, and certainly I believe in what we have done here. However, before our legislature disappears completely beneath the waves, I would like to rise in support of this advice and consent provision, because I do not think it in any way weakens what we are doing here for civil rights.

CHAIRMAN MILLARD: Mr. Austin.

MR. AUSTIN: Mr. Chairman and members of the committee, I'm very reluctant to talk against the concept—or not the concept of advice and consent, but I'm very reluctant to talk against it in regard to this particular amendment. I think the point should be made that we have provided a self executing civil rights commission. What we have done to this point is to suggest that the legislature may participate, but

it is not absolutely necessary that the legislature participate. If we now provide for advice and consent of the appointments made by the governor, it is quite possible that we may defeat our purpose if the senate, for example, should feel that it would not confirm the appointments of the governor. There may be some undermining influence here that I think we ought to take into account. For that reason, for this particular commission I would oppose advice and consent.

CHAIRMAN MILLARD: Mr. Allen.

MR. ALLEN: Mr. Chairman, when a body like this body takes a step as new and as firm as we have taken tonight—while it may have one reaction in the Detroit area—I think that I know enough about outstate Michigan, particularly my area, to know there are many people who may worry that we have gone too far. And there are other people who, by extreme statements, will become worried that we have gone too far too fast. Now, I would very much dislike to see what we have done here tonight become overemotionalized or cause fear or cause undue apprehension. And I think one of the best ways to allay some of this worry is to insert the advice and consent provision in this amendment. As a matter of fact, from the statements that were made previously this afternoon that an amendment would be offered to put it in, as Mr. Martin says, I had assumed that that amendment would be put in when I spoke in favor of the Martin-Austin last amendment.

Now, I think also that we should understand very clearly that the advice and consent provision of the new constitution which we are drawing is quite a bit different than the advice and consent provision which we have in the existing constitution. Because, as you know, under the existing constitution a man is not appointed until action is taken. Whereas, the way we have worded it, he is appointed unless within 60 days he is turned down. Now, from a very practical point of view, I think a legislative body finds it more difficult to take the bold step to turn a man down than to appoint him. We reverse the burden of proof. And there's only 60 days. Therefore, in view of what we have done on the advice and consent, we shouldn't think of the proposed amendment which has been offered on advice and consent as we are so apt to think of it as it has existed under today's constitution. And sometimes I wonder if we aren't motivated by the events of the last 5 years much more than we should be. Because we think of our problems today, we think of our problems of this constitution for 50 years we hope, in terms of our most recent experience. But we ought to take a longer look.

So I say to the minority party here that I hope you do not feel that if this amendment passes—and I think it should pass—that we are completely undoing that which you think has been gained here tonight. I actually think that you will strengthen the outstate vote on this issue. I think that the advice and consent provision is reasonable and fair the way in which it has been handled in the new constitution. And I think, above all, you should understand that when these rights are self executing, except as taken away—and a governor's veto can come, as Judge Dehnke points out, and it requires a 2/3 vote to overcome it—the majority party has gone a long, long way, and if we ask for a certain sense of security by the advice and consent provision, I don't think it's unreasonable. I think we will all be better off if we do it. And I certainly don't think it really is taking away, under our new advice and consent provision, any substantial rights. I think we will get a much better overall reaction.

CHAIRMAN MILLARD: Dr. Nord.

MR. NORD: Mr. Chairman, it is not going to be easy to make a statement at this point on this subject, because a few minutes ago I felt as though we had just reached the high point of the convention, and I wondered how we had got there. Now I feel differently. I don't believe we've got to the high point of the convention. I only believe we thought we had got to the high point of the convention. And let me say why. This amendment when it was offered was stated pointblank to be a vitiating amendment. There was no pretense. It was stated to be so, and it is so.

The reason I take that view and agree with Mr. Everett, who put it forward on that basis, is this. The whole purpose, the entire purpose, of everything that has been done since the

time that Professor Norris and I offered an amendment yesterday, and everything we have done on the same subject today—all of it, without any exception—was directed towards one end, and that end was to provide a board or commission which in no way whatever could be prevented from coming into being; that there would be no way, absolutely none, to prevent it from coming into being. It was to be self executing as to the existence of the commission. As to the powers we took various positions, but as to whether or not there should be a commission there were to be no ifs, ands, or buts whatever. That is the way it stands at the moment before the present amendment was offered.

Now, we have to realize that the effect of advice and consent is absolutely to vitiate the self executing feature. There is a way, now, under the amendment, in which the civil rights commission can be prevented from coming into being. You may think it won't happen; I may think it will happen. Regardless of what you think, one thing is absolutely 100 per cent certain, and that is this: it is no longer self executing. You are now relying on the senate. If you wish to rely on the senate, it seems to me you may as well rely on the legislature all the way. There is no particular reason to single out the senate. You might as well admit you do not have a self executing civil rights commission. What you have is this: a civil rights commission, provided the senate wishes there to be one. I have no reason to believe the senate wishes there to be such a commission. I have every reason to believe the reverse.

Now, as to the merits of advice and consent all by itself, I call to your attention that this is a bipartisan board in the first place. There is much less need in the case of a bipartisan board for advice and consent. It can't be a political problem. And I call to your attention that, as far as I can recall, there will be 4 boards or commissions that are provided for in the constitution, in addition to this one—at least, 4 that I can think of—3 of which do not have advice and consent, and one of which does.

The board of education is a separate board or commission, and there's no advice and consent of the senate, as far as I can recall, in that one; and if I'm mistaken no doubt I will be corrected. The apportionment commission, which I expect will be before you tomorrow or the next day, is a bipartisan commission, provided for in the constitution, and that one is entirely selected by the parties. In that one the governor has nothing to do with it, and there is no advice and consent. In the civil service, the one place where we always wanted to make absolutely certain that politics could not enter in under any circumstances whatever and that we would have an effective system with no possible deadlocks, in the civil service system it provides the same as we provided here, that the governor shall appoint, period; not with advice and consent. The highway commission, as I recall, was the other way. As far as I can recall that does require advice and consent. We have 4 commissions then, and in 3 of them we are not a bit perturbed about not having advice and consent. All 3 of those—the board of education, the apportionment commission and the civil service commission—were either bipartisan or non-partisan. At least, we hoped they would be such. And in all those cases we did not feel it necessary to have advice and consent.

Now, this is much more important in this provision. We have to recognize that we have given the legislature several vetoes already, but we have not made it possible to prevent the commission from coming into being. The legislative checks that now exist in the provision before us, before this amendment, first of all contain a pocketbook veto, as I mentioned before. If there are no funds coming from the legislature, there is not going to be much function of the commission. Secondly, we provide the legislature may provide for methods of implementing these duties. They may provide that. Thirdly, we now have provided that the legislature may, if they wish, change the powers. There are 3 legislative checks already. The third one was wrong, I can tell you, out of us. We did not wish to give it; and it was a dramatic time when we did give it.

You have gotten 3 provisions in there now in which the legislature can check, but cannot destroy, the commission. With this one that you now ask for, you ask for the power not just to check, but the power to wipe out—in fact, the power to prevent the coming into being of the commission. All I can say to you is that this is impossible. It just cannot be. There is no civil rights commission unless it is self executing. If you wish to vitiate everything we have done over one day and if you wish to wipe out what appeared to be the high point of the convention, especially from a bipartisan position, you have the power to do it. I urge you not to do that. I urge you to stand fast with what we have, and vote down advice and consent.

CHAIRMAN MILLARD: Mr. Marshall.

MR. MARSHALL: I will be very brief, Mr. Chairman, because I realize that the debate has gone on far longer than any of us had anticipated. But I want to agree with the remark made by Delegate Wanger that advice and consent is not a civil rights issue. I would oppose the Everett amendment.

When the civil service commission was established, advice and consent of the senate was not granted in the setting up of the civil service commission. The reason I think you do not have advice and consent in connection with the civil service commission was to keep it as far out of politics as you possibly could.

We have reached agreement here on this amendment, and I think we have made history here today and tonight in this convention. I think the eyes of the country will be upon us for the action we have taken in adopting this provision in an atmosphere of bipartisan cooperation in working out the problems. And to now subject this commission to advice and consent of the senate would seem to me to keep this in the political arena, from which we would like to remove it as much as possible, and I see no reason to subject the commission to advice and consent of the senate anymore than you would subject the civil service commission to advice and consent of the senate. I would point out—and I don't know what will happen on apportionment, but again we have to face this—the senate still could be a malapportioned body that was not truly representative of the majority, and in doing this I think we would be taking a step backwards.

In agreeing to the amendment in the first place, I think most of us—I know that I did—agreed to it as it was written, and with some of the understandings that were worked out in the huddles here on the floor, and that did not include advice and consent of the senate. Therefore, I would urge you to adopt the original amendment as I understand it was agreed to, and defeat the Everett amendment. Thank you.

CHAIRMAN MILLARD: Mr. Heideman.

MR. HEIDEMAN: Mr. Chairman, ladies and gentlemen, the statement was made that there is no provision for advice and consent for the state board of education. That of course is quite correct, because we provided that the state board of education is to be elected. But I want to say again that advice and consent does not vitiate this amendment. It does not weaken it. And I wholeheartedly believe in the amendment. I also believe in advice and consent as a fundamental constitutional precept. I believe in the survival of the legislative branch.

CHAIRMAN MILLARD: Mr. Arthur Elliott.

MR. A. G. ELLIOTT: Mr. Heideman has just made the point that I wanted to make about the board of education. I also would like to point out to Dr. Nord that the apportionment board is not a board appointed by the governor, which makes, it seems to me, a significant difference. I further would like to support the remarks of Mr. Heideman that I feel that advice and consent is a consistent and proper position for us to find ourselves in on all boards, and I'm only sorry that my position in the area of civil service did not prevail; because I would have certainly been in favor of including it there.

I would like to urge that we not consider that we have lost the high point, because I think that we are at a point in our convention proceedings which is important. Mr. Everett's statement that his offering of this amendment was represented 70 per cent on a certain basis does not, I am sure, express the views of the members of this delegation, but only his own

views, and I certainly would urge the adoption of this amendment for the reasons that I have expressed.

CHAIRMAN MILLARD: Mr. Wanger.

MR. WANGER: Mr. Chairman, I wish to thank Delegate Marshall for agreeing that the issue of advice and consent is not a civil rights issue, and to disagree completely with Delegate Nord's description of it as a vitiating amendment and a low point in the convention.

I have in my hands a memorandum prepared by the research and drafting department dated March 8 for a delegate in this convention regarding senate confirmation. It covers 12 years of the Williams administration and 1 year of the Swainson administration. It points out all of the cases where the senate has rejected gubernatorial appointments, and also those cases where the senate has never confirmed gubernatorial appointments. And nowhere in this research memorandum does it appear that the senate has rejected or failed to confirm a gubernatorial appointee to the fair employment practices commission.

CHAIRMAN MILLARD: Mr. Yeager.

MR. YEAGER: Mr. Chairman, ladies and gentlemen, we have said about all there is to say on these various subjects. I would like it very much if we could vote, and I respectfully request, because so many people are out in the hall, that we take a division on each one of these votes to get them in here. Thank you.

CHAIRMAN MILLARD: Mr. King.

MR. KING: Mr. Chairman and delegates, I rise neither to support nor oppose the Everett amendment. Like Mr. Bentley, my position on the advice and consent of the senate is known. I wish the record to show that my fellow delegate and good friend, Mr. Kuhn, and not myself, offered and withdrew the amendment with regard to advice and consent of the senate. Thank you.

CHAIRMAN MILLARD: Mr. Everett.

MR. EVERETT: Mr. Chairman, I agree with Mr. Yeager. Probably too much has been said. Mr. Brown has suggested that I was emotional in this matter, and I plead guilty. I am. I believe that anybody who believes in liberty is going to be emotional when he is faced with what is, to us at least, a real threat to our liberties.

CHAIRMAN MILLARD: The question is on the Everett amendment. Division has been called for. Is there support? There is a sufficient number up. All those in favor of the Everett amendment will vote aye. Those opposed will vote nay. The secretary will read the amendment.

SECRETARY CHASE: The amendment offered by Mr. Everett:

[The amendment was again read by the secretary. For text, see above, page 1995.]

CHAIRMAN MILLARD: 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. Everett, the yeas are 74; the nays are 46.

CHAIRMAN MILLARD: The Everett amendment is adopted. The secretary will read.

SECRETARY CHASE: Miss Donnelly offers the following amendment to the pending Austin amendment:

1. Amend the amendment, second paragraph, at the end thereof, after "constitution," by inserting "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."

CHAIRMAN MILLARD: The Chair will recognize the proponent of this amendment, Miss Donnelly.

MISS DONNELLY: Mr. Chairman, members of the committee, I believe the intent of my language is quite clear. The other day I submitted an amendment that was still on the desk that did not so specifically state all of the elements that I felt it would entail. This very simply gives to the courts power—not power to review an administrative board decision, but power to act immediately. The theory that Committee Proposal 95, as passed by this convention earlier, will pro-

tect any individual who feels aggrieved, in my opinion, does not stand up if we read and carefully consider the terms under which this committee acted and drafted this language. The language says:

All final decisions, findings, rulings and orders of any administrative officer or body existing under the constitution or by law, which are judicial or quasi judicial and affect private rights, privileges 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 reliable, probative, and substantial evidence on the whole record.

This is not a trial de novo, or a complete new trial. This is a review. Also, there must be a final decision or ruling or order of an administrative board which was judicial or quasi judicial. I submit that there's no question, the way we are constructing this rights commission, that it will be judicial. So it would fall within that; but there must be this final decision, and a final hearing, before there could be redress from any action here.

Next, I would like to submit that the so called compromise that is to protect citizens and give the legislature some control, as put in by Mr. Martin to amend Mr. Austin's amendment, to the effect "except as otherwise provided by law or this constitution," does not guarantee any safeguard to the individuals who are abused. It would take, as Judge Dehnke said, a 2/3 vote, or a majority vote with the governor's signature. But this would take a great deal of time, and it would take a great deal of abuse. The legislature will and should move slowly. They could not act without a great deal of pressure. They would not act.

Further, I would like to recall to these delegates certain hearings which occurred in this country when certain persons were seeking out so called unAmerican activities. All this commission takes is one McCarthy. I therefore submit that in the eagerness of this convention and this committee of the whole to establish a self executing provision to protect civil liberties, we have not protected people from potential abuses of this very commission which is set up to protect liberties. In the eagerness of some to call this the high point of the convention, I fear that in a few years time, without limitations such as the language in my amendment, we may find that this was the low point of this convention.

The desire to protect citizens should be most vital to us all, the most important thing, in my opinion, the constitutional convention may do—not taxation, not reapportionment, but rights of citizens and humans who are under this state and who wish to live here. Anyone who suggests that the courts of this state will abuse people and that a commission will not abuse people quite frankly horrifies me. To me the last source of strength and relief of any free people is in the courts of any country, and without such provision giving the courts of this state some right to act, I believe that they cannot act, and they cannot aid any citizen who is feeling abuse, or who is wanting immediate direct relief.

This is constitutional language that we have spelled out. We have left very little to the legislature. For a court to act they must find their authority, in my opinion, in the constitution. Therefore, I feel that if we really wish to protect all citizens from all abuse and we really believe that this is a high point, we must build in this a check and a balance, as we have in all other constitutional documents. I therefore urge the support of this amendment.

CHAIRMAN MILLARD: Mr. Hodges.

MR. HODGES: I'm not sure, Mr. Chairman, I have the language of the amendment. Is this it? "This provision shall not be construed to deny, or enable or allow —"

CHAIRMAN MILLARD: The secretary will read, if you are in doubt.

MR. HATCH: We have it displayed up here.

SECRETARY CHASE: The only change from the language on the board is, instead of "this provision," the words in the



official amendment on the secretary's desk are, "These provisions shall not be construed to deny," and so forth.

MR. HODGES: Can you give me the whole Donnelly amendment?

SECRETARY CHASE: Add at the end of the section the words:

[The amendment was again read by the secretary. For text, see above, page 1999.]

MR. HODGES: Thank you. Well, it would seem to me that the objections raised to the earlier Donnelly amendments are equally applicable to this one, in that this would allow a defendant to go into court and perhaps get an injunction against other action on the basis that he constitutionally has a right to be heard immediately in a court of law before the proceedings of the administrative agency have come to any conclusion.

I would submit that this would allow much the opposite from what Miss Donnelly's desired results are, to speed up action, by allowing capricious confusions of jurisdiction by trying to stop the administrative agency from acting, tying it up in a court action, perhaps in circuit court, or something, and having it laying on the dockets of those courts, the very purpose of administrative law being to speed up these transactions. I think this would have a detrimental effect on it, and perhaps negate the very idea of having the administrative agency in the first place.

Certainly many of these things that the agency would be protecting would be provided under courts of law under our bill of rights section. I think that if we are to have this commission—and I think we should—then the first action should be through the commission. And at that point we have set up adequate remedies and safeguards for judicial review. For that reason I would oppose the Donnelly amendment.

CHAIRMAN MILLARD: The Chair recognizes the lady from Houghton, Mrs. Butler.

MRS. BUTLER: Mr. Chairman, members of the committee, it seems to me that the new "equal protection" clause that was written into the constitution in the bill of rights should cover all of this extra verbiage that has been put in.

CHAIRMAN MILLARD: Mr. Garvin.

MR. GARVIN: Through the Chair, to Miss Donnelly, a question.

CHAIRMAN MILLARD: Miss Donnelly.

MR. GARVIN: Miss Donnelly, would you say that if either party involved would ask for direct hearing to the court, and it would continue like that, would the commission have anything to do with these matters?

MISS DONNELLY: I'm sorry, right in the middle of your question there was a cough. If each party would stipulate to go to court — and then I lost you.

MR. GARVIN: No, I didn't say "stipulate," because I don't think your wording includes stipulation. They have the right to go to court directly, without going to the commission at all; is that what you intend?

MISS DONNELLY: I intend that any individual who wants immediate legal or equitable remedy in the courts of the state should be able to go there immediately and directly, if that's what they want. I feel this is a civil right of every person.

MR. GARVIN: Through the Chair, then if the parties continued over a period of time to go directly to court, what would be the duties of the commission?

MISS DONNELLY: I would say the duties of the commission would be to handle those who did not choose to immediately go to court. If it was brought to their attention, they apparently would have their powers to go ahead and investigate anybody, to any degree that they felt inspired to investigate anybody for anything. Now, if anybody wants to go to court and enforce their legal right, I believe that this amendment will allow them to do it directly; that they would not have to exhaust themselves through an administrative board awaiting its decision, awaiting its willingness to act, and just wait. I don't know if I'm answering your question directly. Could you ask me again, through the Chair.

MR. GARVIN: Yes.

CHAIRMAN MILLARD: Please state your question.

MR. GARVIN: In the event parties go directly to court under this, what would be the duties of the commission if this should continue over a period of time?

MISS DONNELLY: Through the Chair, if I understand the nature of your question, you mean as to the individual parties, John Doe and Mary Roe? Do you mean the individual plaintiff and the individual defendant, or do you mean by your question, if I can rephrase your question, if all parties did this and nobody went to the commission?

MR. GARVIN: Correct.

MISS DONNELLY: Well, if all parties did this and nobody went to the commission, I would say that the commission would not be functioning very much. The people obviously were seeking their remedies in the courts of this state, which I believe is a perfectly proper place for them to seek their remedies.

MR. GARVIN: Now, one more question, if you please, Mr. Chairman. Would you say that would have been the proper procedure in the civil service commission also?

MISS DONNELLY: Through the Chair, I had a certain amount of trouble with the civil service commission in trying to get some redress of grievances there, too, in exhausting my remedies and taking my client up to Lansing, and having to come back and forth, and back and forth, so I'm not too delighted with that, either, and I'd like to be able to take them directly to court sometimes on that.

MR. GARVIN: Thank you. Mr. Chairman and delegates, I know Miss Donnelly quite well, and apparently this isn't anything that she would intentionally do. I understand the reasoning behind it; but I also understand the results. The result will be that it finishes the civil rights commission. There will practically be no commission whatsoever. We are chopping it up little by little, and if we go through with this, this will be just about the last.

CHAIRMAN MILLARD: Judge Pugsley.

MR. PUGSLEY: Mr. Chairman and fellow delegates, this is the first time that I have arisen to take part in the discussion of one of the most interesting and important matters which has come before this convention. I'm sure that we are all intensely interested in the administration of justice in whatever court or in whatever tribunal issues of law and fact and the rights of citizens are involved. We have taken an important step in creating a new tribunal, designated as a commission to sit and pass upon civil rights. I am in sympathy with the creation of that commission. We are pioneering, it is true. But I think we are taking a very forward step.

I rise, however, to support the position taken by Miss Donnelly. I do not believe that that is intended, either in spirit or in form, to in any way jeopardize the work of the commission which you have seen fit to establish. I do believe, however, that to insure the practicality of its use, that we should not deprive any citizen of his day in court if he feels that his rights can there best be preserved. One of the inherent rights of man which we have recognized from time immemorial is the right of trial by jury. And if an individual feels, where questions of fact and law are concerned, that he can best have those rights protected in a court of law, I do not believe that we want to deprive him of that right. Therefore, I heartily support the amendment offered by Miss Donnelly, and I believe that it will be a safeguard and a valuable addition and asset to the commission which you have established.

CHAIRMAN MILLARD: The Chair recognizes Mr. Lawrence.

MR. LAWRENCE: Mr. Chairman, members of the committee, I rise to support this amendment. I think perhaps it may not be too clearly understood, in view of the questions and the final statement made by Mr. Garvin. If you, as members of this convention, have intended that you have created a commission that is to take over people's legal rights and the enforcement thereof exclusively, then it seems to me you should say so, make your intention clear, and not leave it in doubt. If, however, it has been your intention to

grant some new rights or the means of investigating and determining whether the constitution is being followed, but it has not been your intention to take away any person's rights that exist—in other words, that you intend that this civil rights provision shall be a 2 way street; that it shall protect everybody—then of course you should vote in favor of this amendment.

Now, this amendment will not give people either legal—I'm sorry, I think we should either adjourn—

CHAIRMAN MILLARD: Talk into the mike. The Chair can't hear you.

MR. LAWRENCE: I think we should adjourn. I think the attention that has been paid here the last half hour on this amendment is nothing that is very complimentary. I move we rise.

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

The motion does not prevail. Proceed, Mr. Lawrence.

MR. LAWRENCE: I'm sorry, Mr. Chairman I'm through.

CHAIRMAN MILLARD: Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, fellow delegates, perhaps my training and my experience has been all wrong. I'm beginning to question it, at least, here tonight. I have always been of the opinion that people's constitutional rights have been a long time accruing to each individual; that those rights are expressed in a document we call a constitution. That we have a court or judicial system set up which has a primary purpose of enforcing and safeguarding those rights. If the intention here is to create a commission that would deprive or even unduly delay the rights of the individual to any legal remedy that he might have, I suggest you are doing far more to harm civil rights than you are doing to help it. Certainly we cannot deprive persons, whether plaintiff or defendant, of insisting upon legal rights guaranteed to them. To do so would be a backward step in civil rights, not a forward one. I support the Donnelly amendment.

CHAIRMAN MILLARD: Mr. Yeager.

MR. YEAGER: Mr. Chairman, ladies and gentlemen, I for one hope that tonight we will stay in session until we get this settled, even if it means 2:00 o'clock, and I hope we don't hear any more motions to rise until we get the whole thing settled. Thank you.

CHAIRMAN MILLARD: Judge Dehnke.

MR. DEHNKE: Mr. Chairman and delegates, there seems to be an impression that what the Donnelly amendment proposes is the creation of new rights. As I understand it, it does not do that at all. It merely means that existing rights, the rights that people have had in the past to go to court, to have the issues in which they are interested settled, shall not be lost. It is merely for the purpose of clarifying that issue, so that that argument cannot be made, that this amendment is offered, and I heartily support it.

CHAIRMAN MILLARD: The question is on the Donnelly amendment. Division was asked for some time ago. Is there support? There is a sufficient number. The secretary will read the amendment.

SECRETARY CHASE: Miss Donnelly has offered the following amendment to section i:

[The amendment was again read by the secretary. For text, see above, page 1999.]

CHAIRMAN MILLARD: All in favor of the Donnelly amendment vote aye. All those opposed will vote nay. Mr. Martin.

MR. MARTIN: I'm sorry. Are we now voting on the Donnelly amendment?

CHAIRMAN MILLARD: We are voting on the Donnelly amendment. All those in favor will vote aye, and 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 Donnelly amendment, the yeas are 78; the nays are 36.

CHAIRMAN MILLARD: The amendment is adopted. Are there any further amendments, Mr. Secretary?

SECRETARY CHASE: There are none.

CHAIRMAN MILLARD: The question is on the adoption of the Austin amendment, as amended. Division was called for. Is there support? There is a sufficient number up. All those in favor of the Austin amendment, as amended, will vote aye. Those opposed will vote nay. Have you all voted? If so, the machine will be locked and the secretary —

MR. MADAR: May I ask what amendment we are voting on?

CHAIRMAN MILLARD: The Austin amendment.

MR. MADAR: I just wondered, because it doesn't look like it anymore.

CHAIRMAN MILLARD: The Chair has announced it 3 or 4 times, Mr. Madar. Do you want it read?

MR. MADAR: It won't sound like the Austin amendment anyway, Mr. Chairman.

CHAIRMAN MILLARD: The secretary will lock the machine and total the vote.

SECRETARY CHASE: On the adoption of the Austin amendment, as amended, the yeas are 74; the nays are 43.

CHAIRMAN MILLARD: The amendment is adopted. Are there any further amendments to section i?

SECRETARY CHASE: Mr. Wanger offers the following amendment to section i:

1. Amend the section, at the end of the first paragraph, after "commission," by inserting "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."

CHAIRMAN MILLARD: The Chair will recognize Mr. Wanger.

MR. WANGER: Mr. Chairman and members of the committee, I realize that it's very late, that we have had a long day, and that the general feeling of this body is that we should definitely accomplish something tonight. This is an admission of the fact that we have both aspirations and also human weaknesses. But I urge you to consider this amendment carefully, for one very simple reason. There is no area today in this very important problem of civil rights which does not have political implications as well as just human rights implications and considerations. It is clear that any public office may be used as a steppingstone, as a means to get votes for the ends of political ambitions. This is perhaps the reason why the constitution provides that judges shall not be eligible for public office during the term for which they were elected or for a certain period thereafter.

I suggest to you that the adoption of this amendment will definitely promote a feeling of confidence in this commission which is very, very important to the effectiveness of its work; that no one on the commission is basing judgments or votes on any matter on desire for political preferment or consideration, but they are basing their judgments on this commission with the true ends of justice in view. I think this is a matter which deserves the most careful consideration of this committee, and I urge its adoption.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Are there any further speakers on your list, Mr. Chairman?

CHAIRMAN MILLARD: No, sir.

MR. MARTIN: May we take a vote on this, then?

CHAIRMAN MILLARD: The question is on the Wanger amendment. Division has been asked for each amendment. Do you want one on this one, Mr. Yeager?

MR. YEAGER: No.

CHAIRMAN MILLARD: All in favor will say aye. All opposed, no.

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support? There is a sufficient number up. The secretary will read the amendment.

SECRETARY CHASE: Mr. Wanger has offered the following amendment:

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

CHAIRMAN MILLARD: The question is on the Wanger amendment. All in favor will vote aye, and 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. Wanger, the yeas are 61; the nays are 55.

CHAIRMAN MILLARD: The amendment is adopted. Are there any further amendments to section 1?

SECRETARY CHASE: Messrs. Hatch and Everett offer—

MR. MARTIN: Mr. Chairman.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: 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 say aye. Opposed, no.

DELEGATES: Division.

CHAIRMAN MILLARD: Division has been called for. Is there support? There is. All those in favor of the motion to rise will vote aye, and 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 motion that the committee rise, the yeas are 32; the nays are 86.

CHAIRMAN MILLARD: The motion to rise does not prevail. The secretary will read.

SECRETARY CHASE: Messrs. Hatch and Everett offer the following amendment:

1. Amend the section, after "Sec. 1.", by striking out the balance of the section and inserting "There is hereby created a civil rights commission to secure the protection of the civil rights guaranteed by law and by this constitution. The commission shall consist of 4 members, not more than 2 of whom shall be members of the same political party, to be appointed by the governor, with the advice and consent of the senate, for 4 year noncoterminous terms. The legislature shall prescribe by law the powers of the commission to accomplish this purpose and shall provide sufficient funds for its effective operation. At any time within 2 years following 2 years subsequent to the adoption of this constitution, the governor may submit to the legislature a proposed plan or plans to implement further the objectives of the commission as set forth in this paragraph. Where such proposals require the force of law, they shall be set forth in an executive order. The legislature shall have 60 days of a regular session or a full session, if of shorter duration, to disapprove such order. Unless disapproved in both houses by a resolution concurred in by a majority of the members elect of each house, such plan or plans shall become effective at a date thereafter to be designated by the governor."

CHAIRMAN MILLARD: The Chair recognizes Mr. Hatch.

MR. HATCH: Mr. Chairman, this amendment is essentially the same amendment which Mr. Bentley offered at an earlier time during our deliberations, and then withdrew in order that Mr. Austin might offer his substitute and Mrs. Judd's amendment could be considered to it. I think it is, as opposed to the Austin amendment, better language. I certainly prefer it. I think it goes a long way, and is certainly a constructive step forward.

My objections to the Austin amendment—and if I recall the language correctly, it states that it will be the duty of the commission to secure the protection of the civil right to employment, education, housing and public accommodations. Now, I don't know what the civil right to employment is. Nowhere in the constitution have we defined a civil right of employment. As Mr. Everett pointed out earlier, does this include the right to work? Just what does it include? I don't know. The civil right to education. What does this mean? Does it mean that everyone has a right to education, K through 12, through college? Just what does it mean? The civil right to housing. Does this conceivably mean that if I desire to sell my home only to persons of Dutch descent, I would then be in violation of this civil right to housing? And, if so, what can this commission do to me? What is the right to public accommodations?

The whole point is that when we considered Committee Proposal 26, the equal protection clause, we did not include

language of this sort, but used the general, recognized legal terms that are used in the federal constitution. I feel that this substitute amendment offered by Mr. Everett and myself, which was previously offered by Mr. Bentley, goes far enough when it says that the civil rights commission is created to secure the protection of the civil rights guaranteed by law and by this constitution. Therefore, I urge the delegates to support this amendment. I would yield to Mr. Everett, if he has any comments.

CHAIRMAN MILLARD: The Chair will recognize Mr. Everett.

MR. EVERETT: Mr. Chairman, I can add little to the presentation which Mr. Hatch has made. I hope that sheer fatigue does not take us away from what we are really looking at. I don't believe any state in the union incorporates in its constitution as strong a guarantee of the civil rights of the citizens of that state as the language which we are proposing here.

When Mr. Austin offered his amendment, I didn't know what it meant; and when we finished amending it I don't think Mr. Austin knew what it meant. We do know what this means. Frankly, there were things about it which some of us had difficulty accepting. Earlier today we did accept it because we believed, as Mr. Binkowski said earlier, the very practice of discrimination is immoral, and it must leave us. We are willing to swallow some scruples so that we can take a step in that direction. Scruples we will swallow, but the surrender of our liberties we cannot.

This guarantees, as much as any written document can guarantee, the protection of the constitution of the state, of the courts, to the individual liberties of every citizen of this state. I don't think any citizen has the right to demand more. I ask you to support this amendment.

CHAIRMAN MILLARD: Mr. Bentley.

MR. BENTLEY: Mr. Chairman, this amendment was drafted some 13½ hours ago by Mr. Martin and myself. I have no idea what Mr. Martin's position will be on this amendment, but I can say that I am supporting it.

CHAIRMAN MILLARD: Mr. Higgs.

MR. HIGGS: Mr. Chairman, fellow delegates, I also do hope that fatigue does not overcome us or affect or cloud our judgment in this most serious matter in which we are engaged. I really don't think there are many matters that will come before the convention that will have more far reaching effect than the matter that is under debate.

To some extent I share the concern of Delegate Hatch as to what is meant in Delegate Austin's amendment with regard to civil rights to employment, housing, et cetera. It seems to me that in embarking on this legislative matter, we should go forward with it and define it. I think that the proponents of this amendment may have given some thought to this, and I would like to hear what they have to say. I think if this is the particular concern of Delegate Hatch and Delegate Everett as to exactly what we mean in the Austin amendment, we should go forward and spell it out.

Again, I would have to oppose this amendment which they now offer, for the simple reason that we are passing the buck, first to the legislature, and then to the governor—and the governor acting alone. I cannot subscribe, in all conscience, representing the people who sent me here, to a proposition which would pass this along in that manner, ultimately in the sole power of one man. This is too big a responsibility for the governor acting alone. It's a big responsibility for us. It's a big responsibility for the legislature. But because it's a big responsibility, we cannot duck it, we cannot pass it, we must meet it squarely.

I said yesterday that if I were drafting such a provision, I would want to spend some time on it. I'm not prepared to lay out the outlines of this provision myself, but it seems to me that we have delegates in this convention that are prepared to do it. And if they are prepared, I think that we should move forward in preparing this particular provision in a form with which we can go forward and say to the people: this is what we intend and what we mean.

The Hatch-Everett amendment would not guarantee to us anything. It would not guarantee that we would have a civil

rights commission in a form satisfactory to protect the rights of minorities. Neither would it guarantee that we would have any of the guarantees which they propose should be provided for defendants or respondents in these administrative agencies. I think that in writing this into the constitution these matters should be covered and provided. I reiterate: I can't add anything to it.

I am not prepared or willing, and I don't think the people of this state on any side of this question are in a position to accept a proposition such as this, which really means very little, and guarantees the rights of no one in a definite way, and merely presents the legislature, first, and then the governor acting alone, a blank check.

CHAIRMAN MILLARD: Mr. Leppien.

MR. LEPPHEN: Mr. Chairman, fellow delegates, I want to make one observation before I make my comments about the amendment. That is that I hope that this convention never again asks the delegates to be in a convention session of this kind and not have before us the necessary copies of amendments as long as the Austin or other amendments that have been before us this night. So much for the comment.

Mr. Chairman, as one of the members of the committee on rights, suffrage and elections, it was my pleasure to—shall we use the ordinary expression—sit at the feet of one of the learned gentlemen delegates of this convention, and I refer to Dr. Norris, and hear from him over and over and over that any time we put into the constitution words that have a tendency to appear to give rights, they restrict rights. I like to express it in this manner: if we are talking about the silverware on the table and we mention the knife, fork and spoon, then we forget the butter knife, the sugar spoon and so on that covers a multitude of other silverware that is on that table.

As a result of those long months in which we were studying and finally brought it into being, with the assistance and under the leadership of our very eminent chairman, Dr. Pollock, and with the able work of the commission on civil rights, as headed by the gentleman who is in front of me, Dr. Hannah, who provided us with the necessary wordage and information as to what should go into the constitution, I voted against the Austin amendment—not because I'm against any of these rights being secured for all of our citizens, but because I could not accept the proposition that those spelled out words should be in the constitution. Because then, as Dr. Norris very much explained, they become restrictive. Who knows what rights are going to be necessary to spell out 10, 15, 20, 30 years from now—yes, even 50 years?

You will recall that when the proposition, Committee Proposal 26, came before this convention and ultimately was adopted, the proponents of Delegate Proposal 1621, which spelled out all of these things—and it was agreed in our committee that they would not oppose our committee proposal, which was the majority report of that committee—preferred theirs to ours. And I respectfully point out to these delegates that's a great deal of difference.

I hope, I urge, I beseech the delegates assembled here tonight, to give serious consideration to this, and let's put in there what has been drafted to secure these rights in an orderly manner; and I'm sure that in the years to come no regrets will be had because we had put in some words that now become restrictions under experience rather than rights. Thank you.

CHAIRMAN MILLARD: Mr. Hatch.

MR. HATCH: Mr. Chairman and members of the committee, I know there was some concern about the unlimited power of the governor to submit proposed plans to further implement the objectives of the commission following 2 years after the adoption of the constitution. You will recall that Mr. McLogan, I believe, had offered an amendment to Mr. Bentley's amendment to limit that power to no more than 2 years. I would call to the delegates' attention that that amendment, although it may not be in the precise language in which Mr. McLogan offered it, is included in this provision.

In other words, the composition of the commission is established by this provision; its duties are set forth in this provision; the term of office is set forth; but the legislature has

2 years within which to prescribe by law the powers of the commission to accomplish the purpose of it. If they did not do so, or if the powers they so set forth did not concur with what the governor thought should be included in the powers of the commission, he then would have a 2 year period within which to submit or promulgate an executive order.

At this time, Mr. Chairman, I would like to state my understanding of what the executive branch committee felt with respect to a civil rights commission; namely—and I think we are still talking about the same commission—that it would not necessarily, if we had a constitutional provision concerning a civil rights commission, have to be one of the 20 principal departments. I would like to direct a question to Mr. Martin at this time to ascertain whether or not he concurs in that statement.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, Mr. Hatch, I do concur. We did not specify that it should be one of the 20 departments. That would be up to the legislature to determine.

CHAIRMAN MILLARD: The question is on the Hatch-Everett amendment. Mr. Martin.

MR. MARTIN: Just a word on this. Mr. Bentley has mentioned that some work was done on this some 13 hours ago, and that this was the product of that labor. It contained what we thought were all of the provisions of the Nord amendment, and contains the same provisions as the proposal with respect to the highway commission as to terms and as to numbers of members; and it contains the provision which in substance was contained in our original committee amendment with respect to the governor and such part he might have in this. So this is, obviously, an amendment which I can and do support. As I indicated some time ago, I am personally willing to go further. This is what we recommended. This was the amendment that Mr. Bentley and I specifically recommended, however, and we did not recommend more than this at that time.

CHAIRMAN MILLARD: Mr. Stevens.

MR. STEVENS: Mr. Chairman, I have on the desk an amendment to strike the last portion there. It was made to fit the Bentley amendment. I understand this is practically the same thing. Is it in order?

SECRETARY CHASE: Mr. Stevens offers the following amendment to the amendment:

1. Amend the amendment, at the end of the third sentence, after "operation.", by striking out the balance of the section.

CHAIRMAN MILLARD: The Chair recognizes Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, I see no point in talking longer about this. I have expressed my feelings on the idea of giving legislative powers to the governor, turning the government upside down. I do not favor this method of enforcing this kind of law. But, if we are going to have a commission, let's have one that makes some sense. Let's try to keep our age old tradition of Michigan and the United States of the separation of powers.

CHAIRMAN MILLARD: Mr. Everett.

MR. EVERETT: Mr. Chairman, I oppose the Stevens amendment. When I spoke earlier of swallowing scruples, this is one I'm willing to swallow. I agree with him that this violates our traditional concept, but I think that in this area we have to yield our traditions to accomplish what needs to be accomplished.

I am not one who believes that the legislature won't act. I believe they will. There are people here who think otherwise. I am willing to go along with them and say, "All right, if the legislature won't act, the governor shall." I don't think that we can in fairness say that if we strike this, we are substituting for the Austin amendment, because I honestly think we are going to what Mr. Boothby proposed originally. I therefore oppose the amendment and will vote against it, and support the original amendment.

CHAIRMAN MILLARD: Mr. Young.

MR. YOUNG: Mr. Chairman, I oppose the Stevens amendment. I also oppose the previous amendment, the Hatch amendment. I think we ought to be pretty clear on what is hap-

pening here tonight. We spent a long time in perfecting or supposedly perfecting the Austin amendment. Many delegates got up on this floor in a spirit of self declared bipartisan unity and indicated that they were willing to go further than this amendment that is on the wall now. Mr. Martin was one of those, and there were many others. Now, I submit that it is physically impossible to go forward and to go backward at the same time. You cannot vote yes on the Austin amendment as it was amended and then turn around and vote yes on the Hatch-Everett amendment and still be going forward.

Now, I think it ought to be clear that what we are doing here is, slowly, by a process of attrition, whittling away and weakening and vitiating whatever progress we have made today. Now, if that is the intention of this committee, then it should be done consciously. I will say to you in all sincerity that a half a civil right is not much better than no civil right. We have definitely reached the point of diminishing returns. Now, how much more chopping can we do?

CHAIRMAN MILLARD: Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I rise in support of Mr. Stevens' amendment. We have a governmental system which through the years, through the generations, has proven to be a system protective of the rights of individual citizens. And in that system we have a legislative process vested in a legislature. Now, it is true that from time to time people and perhaps at times large segments of the people become very impatient at the slowness of the legislative process. But, my fellow delegates, the fact that once in a while the legislature doesn't do as some group wants it to do or doesn't act as quickly as some group wants it to act is certainly no reason at all to just turn the whole system upside down.

These last couple of sentences, starting "At any time within 2 years following 2 years subsequent to the adoption of this constitution, the governor may submit," and so forth, are an open transfer of legislative power to the governor, and the proponents of this amendment, as I listened to the explanation, admit that this is intended so that if the legislature acts, but doesn't act quite in the way that the governor at the time thinks it should have acted, and he wants to go further than the representatives of the people want to go, you vest in him a legislative power to write up a plan and submit it to the legislature, and then you let the governor say to the legislature: veto it, if you will. Now, I understand—I gather from the reading of this language—that this would require the veto of both houses within 60 days of a regular session, or a full session, if of shorter duration; and it would take both houses. You cast upon the legislature the same burden, if you please, as is the burden of legislation, but you leave to it only the power of veto.

Now, it's very apparent to me that there are certainly not very many of you that ever served in legislative bodies. The burden of going forward under this system is completely reversed. In the ordinary course of legislation it is the people who want to effect a change that have the burden of going forward and have the burden of getting together a majority in each house of the legislature. Now, that's their burden, the burden of accomplishing change, to convince a majority of each house of the legislature to make that change. But what does this arrangement do? It completely changes that burden. And the people who desire change have no burden at all. You cast the burden upon the folks who do not want a change to gather together the majority. And that's a great deal different. You are completely changing the burden of going forward in the legislative process, and indeed you are transferring to the governor the power to make the law, and leaving to the legislature the power only to veto it, if it will.

This language here about implementing further the objectives of the commission is very broad. You give to the governor the power to write proposed plans to implement further the objectives of the commission. Now, this goes much further—much further—than simply executive reorganization. In the field of executive reorganization all you do is give to the governor the power to change the structure of his branch of government. But here you give to him, through the apparent process of simply writing a plan, the power to do

much more than that; actually, to define substantive rights. You are actually giving him the power to make a law, and you are doing it simply because some of you have become impatient with the legislative process. The expression of your impatience here shows that somehow or other you have lost faith with our American heritage. And I say to you that, in my opinion, this language which Mr. Stevens' amendment proposes to strike—and I endorse Mr. Stevens' amendment—grants a power here which is much worse, much worse indeed, than would be the situation of a self executing civil rights commission. I endorse Mr. Stevens' amendment, and I endorse the striking of this language. I hope that Mr. Stevens' amendment will be adopted.

CHAIRMAN MILLARD: Mr. Everett.

MR. EVERETT: Mr. Chairman, I subscribe to what Senator Hutchinson has said, and I sincerely admire his honesty and vigor in stating it; but I still oppose this amendment. To me the matter of discrimination is a cancerous growth in our society, and I'm willing to use strong medicine, even surgery, to remove it. What I am not willing to do is to remove the vital organs of the body and get rid of the cancer, but kill the patient. I think we've got to admit that either we are willing to use strong medicine or back away entirely. Therefore, I am opposing Mr. Stevens' amendment, and I am going to vote for our amendment without it, assuming that the Stevens amendment is defeated.

CHAIRMAN MILLARD: Mr. Hodges.

MR. HODGES: Mr. Chairman, Delegate Hutchinson's remarks would be well and good if we had representative government in the legislature. Now, we realize this or we wouldn't be putting this language in. The reason we had to do this is because for 10 long years, in this state legislature, this has been bottled up in committee and has never even been allowed to come out for a vote. This is why we are acting this way, and everyone here knows it. We do not have a responsive legislature, we do not have a responsible body, and for that reason we must oppose the Stevens amendment.

CHAIRMAN MILLARD: Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, I would like to say just 2 things. First, I would like to assure Mr. Young that so far as I'm concerned this has nothing to do with partisan politics. Second, I would like to remind you people of the committee, for I don't know how many times, that we are not dealing with substantive rights here; we are dealing with procedure.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Mr. Chairman, I just want to say that this amendment would strip this back to essentially the provisions of the earlier Nord amendment. It does not contain any teeth. Rather, it removes any teeth from this amendment. And those who want to go forward in meeting this problem will certainly not vote for this particular amendment.

CHAIRMAN MILLARD: Dr. Hannah.

MR. J. A. HANNAH: Mr. Chairman and members of the committee, I am disturbed by some of the statements made recently by some of the delegates that raise the question as to what it is we are talking about when we are talking about civil rights in education, civil rights in employment, and civil rights in housing. If one spends as much time and energy as I have in the past 5 years dealing with this problem at the national level, where one is lambasted on both sides of the head with all of the dead cats that are within reach by both the proponents and the opponents, the time comes when one is required to answer the question that Mr. Hatch raised, and one or two others, that they don't quite understand what it is that we are talking about.

Now, I'm not talking in favor or against specific language. I would just like to refocus the attention of the delegates to this convention as to what it is that civil rights is all about. And I'm not going to repeat the speech that was made the other day because that wouldn't be useful.

What is it that you are really, legitimately trying to do for these 700,000 people in this state or the 18 or 19 million American negroes in the United States?

MR. YEAGER: Point of order, Mr. Chairman. I would



like to inquire if the good doctor is speaking on the amendment.

CHAIRMAN MILLARD: Dr. Hannah, we are talking about the Stevens amendment. The Chair would like you to confine your remarks to the amendment, if you will.

MR. DOWNS: Mr. Chairman, I move unanimous consent to let Dr. Hannah continue his talk.

CHAIRMAN MILLARD: The question is on the motion of Mr. Downs. All in favor will say aye. Opposed, no.

The motion prevails. Dr. Hannah may proceed.

MR. J. A. HANNAH: Ladies and gentlemen, I have no intention to take a long time and wear you out beyond where you are. But what is it that you are trying to accomplish when you establish a civil rights commission, or pass civil rights legislation? What is the objective? Finally, you have to think this one through and come up with an answer that is satisfactory, or satisfying to you, to make the effort worthwhile. I'd like to tell you what it is that I have been trying to accomplish, and if you think it's important maybe you want to establish a civil rights commission, and if you don't think it's important and you don't want to establish a civil rights commission, I shall have no less respect for any individual among you.

Actually, what you are trying to accomplish, I hope, is to recognize that these persons that do not happen to be born white should have the same opportunity to develop whatever potential they are born with that all other citizens in this great country of ours have—an opportunity to develop all of the potential that God gave them, so that they may make a useful contribution to our society. Then, once you have given them this opportunity through free education or the same education that you give to white people so that they've developed this potential, then the next step is to see to it that they have an opportunity to use this developed potential in the service of society. Because the one resource that a free society cannot afford to squander is the productive ability of all of its citizens. This is where you get into the employment business. Now, once the man or woman has developed the potential that God gave them so that they can make a useful social contribution, and society provides them an opportunity to make this contribution, then the next step is to make certain that these people have the same opportunity to enjoy the rewards that go to all other people that can make the same kind of a contribution to society. So if they want to live in a decent house, as decent people, they have the opportunity to do so in a decent neighborhood. If they don't want to live in that kind of a situation, of course they can live in the other kind of a neighborhood.

And then you finally get down to the last final analysis: all you are trying to do for the man or woman who happens to be born a negro or a Mexican or an oriental or a Jew or something else—the right to be recognized as an individual. And, ladies and gentlemen, the damning characteristic of the civil rights problem in this country and in all others is the fact that we brand people as a group. All any negro wants, I hope, is an opportunity to be recognized for what he is. If he is decent and respectable and entitled to respect, he has a right to expect it, and not be damned just because he happens to be a negro, or be classed as an inferior individual because of the color of his skin, which he can do nothing about. This is all it's about. Now, I'm sure that when Mr. Hatch and others said they don't know what you're talking about when you talk about civil rights in education or civil rights in employment or civil rights in housing, that isn't what they mean.

Now, you can come back to these amendments and do whatever you want to. There was a time today when it looked like we wanted to move forward. If we don't want to move forward, well, we'll be just where we were. But we've moved up, and now we are going to move back, and we are all tired, and I was opposed to adjourning awhile ago, but maybe we have reached the point where we can't settle this one tonight.

CHAIRMAN MILLARD: The question is on the Stevens amendment. Mr. Austin.

MR. AUSTIN: Mr. Chairman, I would like to oppose the Stevens amendment.

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

The amendment is not adopted.

DELEGATES: Division.

CHAIRMAN MILLARD: A division is called for. Is there support? There is.

SECRETARY CHASE: The amendment offered by Mr. Stevens to the Hatch-Everett amendment is:

1. Amend the amendment, at the end of the third sentence, after "operation.", by striking out the balance of the section.

CHAIRMAN MILLARD: All those who are in favor of the Stevens 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. Stevens, the yeas are 47; the nays are 65.

CHAIRMAN MILLARD: The amendment is not adopted. The question is now on the Hatch amendment. Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, for the reasons I have stated and the reasons so eloquently presented by Mr. Hutchinson, I oppose this amendment. The Austin amendment in my opinion is a much preferable one to this. It is a well drafted amendment. It spells out what it seems to want to say, and I don't know what this does say.

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

The amendment is not adopted. Are there any further amendments to the section?

SECRETARY CHASE: There are none, Mr. Chairman.

CHAIRMAN MILLARD: If there are no further amendments, it will pass.

Section i, as amended, is passed. Are there any further amendments to the body of Committee Proposal 71? If not, it will pass.

Committee Proposal 71, as amended, is passed.

MR. WANGER: Mr. Chairman, point of information. Are you talking about all of Committee Proposal 71?

CHAIRMAN MILLARD: The Chair is talking about Committee Proposal 71. Are there any amendments to the body of the proposal?

MR. WANGER: Yes. I filed one up there at the desk. It goes way back to a part at the beginning which has nothing to do with civil rights, and I'm awful sorry to burden the committee with this thing this late at night, but if this is what the situation is, we have no choice; because all of these things are in one big committee proposal.

CHAIRMAN MILLARD: If the gentleman has filed his amendment, he has a right to be heard.

SECRETARY CHASE: The secretary misunderstood, Mr. Wanger. I thought you wanted to offer this in the convention. Is this an amendment to amend page 3, line 28?

MR. WANGER: Yes, sir.

SECRETARY CHASE: Mr. Wanger offers the following amendment to the body of the proposal:

1. Amend page 3, line 28, after "constitution.", by inserting "Failure of the governor to act upon such an appointment within 60 days shall operate as approval thereof."

CHAIRMAN MILLARD: The Chair will recognize Mr. Wanger.

MR. WANGER: As you will recall, Mr. Chairman and members of the committee, this problem was before us at a time previous. It has to do with whether or not the governor should be allowed to suspend action on the executive head of a board or commission heading a principal department so that in effect this man would be serving at his pleasure throughout his term.

It was decided, I'm sure, that we did not want the senate to have this power, and yet it was pointed out that under the language of the committee proposal as adopted previously it would be possible for this to happen. The amendment which I offered before, which as you know said that in order to have the appointee assume the duties of his office he would have to have the approval of the governor, was defeated because of the gap which might thereby be created. This does not cause any problem of a gap. It treats the approval of the governor

in the same way as advice and consent of the senate is treated. It means that if the governor is not going to approve of such a person, then it is necessary that he disapprove within 60 days.

CHAIRMAN MILLARD: The question is on the Wanger amendment.

MR. HIGGS: Mr. Chairman, point of information.

CHAIRMAN MILLARD: Mr. Higgs.

MR. HIGGS: We have made some amendments to this particular section previously, and in reviewing my notes I don't have the complete proposal; so I really don't know how to vote on this particular amendment. I wonder if we could have the whole section on the board, or read, so we can act intelligently here. I don't care how late it is tonight, I want to know what I'm voting on.

CHAIRMAN MILLARD: Mr. Martin.

MR. MARTIN: Well, Mr. Chairman, I am not sure that Mr. Wanger still wants to make this amendment. I had some conversation with him this afternoon, and I thought he understood that this was going to be an unnecessary amendment.

MR. WANGER: Well —

CHAIRMAN MILLARD: The question is on the Wanger amendment.

MR. G. E. BROWN: Mr. Chairman, a preferential motion. I would move that the committee do now rise.

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

The motion does not prevail.

DELEGATES: Division.

CHAIRMAN MILLARD: A division is asked for. Is there support? There is a sufficient number up. Those in favor will vote aye. Those opposed, no. 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 61; the nays are 58.

CHAIRMAN MILLARD: 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 **Committee Proposal 71**, and has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: I move the convention do now adjourn.

SECRETARY CHASE: I have some requests for leave, and some announcements.

MR. MARTIN: I'm sorry.

PRESIDENT NISBET: The convention will be in order, please.

SECRETARY CHASE: I have the following announcements: there will be a meeting of the farmers discussion group at 8:00 o'clock tomorrow morning, Friday, in room A. This meeting will not be open to the press. J. Burton Richards and Edward K. Shanahan calling same.

We have the following requests for leave: Mr. Lawrence files this request, "May I be excused from the Friday afternoon session? Purpose: to see a psychiatrist." (laughter)

MR. LAWRENCE: Mr. President.

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: For the past few days I have been keeping some notes. That happens to be a true statement. My best friend is a psychiatrist from Akron. I'm going to spend the weekend with him. If any of you have any requests, if you'll put them in writing and give them to me by tomorrow noon, I'll be glad to see what I can find out. (laughter) I'll report Monday.

SECRETARY CHASE: Mr. Baginski requests leave from Friday's session; Mrs. Butler wishes to be excused from the Friday afternoon and Monday sessions; because of illness, please excuse Mrs. Conklin from the sessions of Friday and Monday; and Mr. Harold Norris asks to be excused from the Friday morning session, tomorrow morning.

PRESIDENT NISBET: Without objection, the requests are granted.

Mr. Martin.

MR. MARTIN: Mr. President, I move that the convention do now adjourn.

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

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

[Whereupon, at 11:20 o'clock p.m., the convention adjourned until 9:00 o'clock a.m., Friday, March 30, 1962.]

[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, 1/2 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 consecutive 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
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Balcer	Greene
Barthwell	Hart, Miss
Binkowski	Hatcher, Mrs.
Bledsoe	Hodges
Brown, T. S.	Hood
Buback	Jones
Cushman, Mrs.	Kelsey
Dade	King
Douglas	Krolkowski
Downs	Kuhn
Elliott, A. G.	Lawrence
Elliott, Mrs. Daisy	Lesinski
Faxon	Liberato
Follo	Madar
Ford	

Marshall
McCauley
McGowan, Miss
Murphy
Nord
Rajkovich
Snyder
Stopczynski
Suzore
Walker
Wilkowski
Wood
Young
Youngblood

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.	Staifseth
DeVries	Koeze, Mrs.	Staiger

Donnelly, Miss	Kuhn	Sterrett
Doty, Dean	Lawrence	Stevens
Doty, Donald	Leibbrand	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 organization, 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

Boothby	Hoxie	Shanahan
Buback	Jones	Snyder
Cushman, Mrs.	Kelsey	Stafseth
Dade	Kuhn	Stopezynski
Douglas	Leibrand	Suzore
Downs	Lesinski	Walker
Elliott, Mrs. Daisy	Madar	Wilkowski
Erickson	Marshall	Wood
Faxon	McAllister	Woelfenden
Follo	McCauley	Young
Ford	McGowan, Miss	Youngblood
Garvin	Murphy	

SECRETARY CHASE: On the question of concurring in the amendment of the committee of the whole to add section h, the yeas are 59; the nays are 53.

PRESIDENT NISBET: The amendment is adopted. The secretary will read.

Mr. Madar.

MR. MADAR: I believe we have a right to insist that those that are in the hall vote.

PRESIDENT NISBET: It is too late, now, Mr. Madar. The vote has been announced.

MR. MADAR: They are still here.

PRESIDENT NISBET: The vote has already been announced.

MR. MADAR: Okay, if they don't have the courage.

SECRETARY CHASE: Amendment 11:

[The amendment was read by the secretary. For text, see above, page 2010.]

PRESIDENT NISBET: The question is on concurring in the amendment.

SECRETARY CHASE: Messrs. Van Dusen, J. B. Richards, John Hannah, Goebel, King, Martin and Bentley offer the following substitute amendment:

1. Amend page 5, following section h, by inserting a new section to read as follows:

"Sec. 1. 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: The Chair recognizes Mr. Van Dusen.

MR. VANDUSEN: Mr. President, I am sure that the delegates noted, as Mr. Chase read the Austin amendment and the proposed substitute, a considerable similarity between the 2. That similarity is intentional. I think all of the delegates will recall that the section which we are now considering was adopted in the closing hours of a long day's session which ran on well into the evening. Many amendments were made to it rather hastily and without the opportunity for detailed consideration. One of the reasons for the delay of the con-

sideration of Committee Proposal 71 from last Friday until today was to give some opportunity for some careful consideration of this section, with the opportunity and hope of making clarifying amendments which would improve it, which would make clear its intentions.

Let me, simply, detail for you very briefly the changes which are proposed here. The Austin amendment would have created a civil rights commission consisting of 4 members, 2 from each party. The substitute proposes a commission of 8 members, not more than 4 of whom should be members of the same party. The purpose of expanding the commission is to make sure that there would be adequate opportunity for representation from a broad segment of our community and our society.

The section with respect to the duty of the commission has been changed, largely as a matter of style, to read as follows:

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.

I have discussed this sentence with the proponents of the original Austin amendment and I think it is reasonably clear that there is no substantive change here. The principal change in language has been the elimination of the mention of 4 specific civil rights which were enumerated in the amendment as adopted by the committee of the whole. Those civil rights, it's clear under Committee Proposal 26 and the committee report thereon, are within the purview of the civil rights guaranteed by law in this constitution. Mentioning them again in this section would, in our opinion, be redundant. There is no intention to change, in any respect, the nature of the civil rights protected by this commission from the amendment, as adopted by the committee of the whole, to the substitute.

In the next sentence, there has been a slight style change eliminating the word "sufficient" with respect to the appropriation, which was felt might be productive of litigation. The sentence now would read, "The legislature shall provide an annual appropriation for the effective operation of the commission."

In the final paragraph, which spells out the powers of the commission, it has been made clear that the powers granted by the constitution are self executing, as in the case of the Austin amendment. Those powers have not been significantly changed. They have been somewhat clarified. It has been made clear that the powers of the commission would be exercised in accordance with the existing statutes governing the conduct of the affairs of administrative agencies; the statutes in question are the administrative code act and the administrative procedures act adopted by the legislature to guarantee due process in the conduct of the affairs of all administrative agencies of the state. These are existing statutes. No new law would be necessary. The commission is granted the powers in the constitution, and the statutes being those which are generally applied to administrative agencies would automatically apply. There are 2 particular changes, one specifying that the rulemaking power of the commission is the power to promulgate rules and regulations for its own procedures and making it clear that if the commission found it necessary to subpoena witnesses, they would have to, as all other administrative agencies do, apply to the court for the subpoena power.

Finally the last sentence, which was the so called Donnelly amendment, has been changed as a matter of style to clearly provide that 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.

There is nothing in the substitute which in any way vitiates the amendment adopted by the committee of the whole. It establishes a civil rights commission. It provides for the powers of that commission. It is self executing in both of those respects. I believe it is a distinct improvement, in that

it is clear, and it spells out the due process requirements attendant upon the exercise of the powers of the commission.

I would like, Mr. President, if I might, to ask Dr. John Hannah if he would comment on 2 or 3 aspects of the proposed substitute which resulted from his experience as chairman of the federal civil rights commission, particularly the limitation of the rulemaking power to the rules and regulations for the procedures of the commission, and the subpoena power, and Dr. Hannah might also want to make some comment about the increase in the size of the commission. I yield at this time, Mr. President, to Dr. Hannah.

PRESIDENT NISBET: Mr. Van Dusen yields to Dr. Hannah.

MR. J. A. HANNAH: Mr. President and members of the convention, I shall not repeat the points that Mr. Van Dusen has already covered. I was responsible, partly, at least, for the suggestion with reference to the increase in size of the members of the commission. I felt that this was important because I feel that it is important that a majority of the commission—if their work and recommendations and actions are to be accepted by most people, it is important that a majority of the members be not members of minority races or groups that are discriminated against. Just in the practicality of things, in a bipartisan commission, the probabilities are pretty good that each party would feel that it would be necessary to have at least one negro member and possibly at least one member from some other minority group. With a commission of 4, it would be possible, in fact I think it would be probable, to come up with a commission of not more than 1 or 2 representing the great bulk of the public that are not members of minority groups or groups discriminated against. I think this is a distinct improvement which makes it possible for full representation by the minority groups and at the same time the maintenance of equal or majority membership by folks that are not generally discriminated against.

The next point that Mr. Van Dusen has raised is the one that gives the commission the power to make rules, and I was a little concerned by the wording. Certainly they must make rules for their own operations. They must have an opportunity to carry on their work and to issue orders and this sort of thing. I am concerned because of some of the experiences that I have had in the civil rights commission, the federal civil rights commission. The commissioners, I am sure, here, would be generally fair and objective in operating in the public interest; but there is a tendency, always, on the part of staff people, the full time employees, to sometimes forget the public interest and they are inclined to throw their weight around, sometimes to the embarrassment of the commissioners, and the commissioners find themselves, finally, the tools of their employees. I think that the change in language here is a distinct improvement.

Then, the last one, is the subpoena power. I don't believe that it was Mr. Austin's intention—it was certainly not my intention in supporting his amendment—to frighten people by giving them the notion that this was going to be one of those commissions absolutely independent and with the unquestioned power to subpoena individuals or records. Obviously they must have the opportunity to get unwilling witnesses before them or to get before them records that are necessary for them to make judgments, but there is nothing wrong about requiring that they go through the courts. The federal civil rights commission has the subpoena power, and I am sure you appreciate that the federal bureau of investigation does not have it, the department of justice does not have it. I think we have not abused it, but I have seen opportunities where we could have abused it unless we had been very conscious of this opportunity. I think we take nothing away at all.

I think we've protected the public interest, and so on those specific changes, I concur wholeheartedly, and I have no reservations about the rest. I think this is a distinct improvement over the action that we took the other evening. At some later time, if other amendments are offered, I may have an individual opinion, but I endorse this as it appears before us.

SECRETARY CHASE: Mr. Austin and Mrs. Daisy Elliott have filed an amendment to the substitute:

1. Amend the amendment, first paragraph, second sentence, after "constitution" by inserting a comma and "including but not limited to civil rights to equal opportunity in employment, education, housing and public accommodations,".

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President, I am wondering if we could defer action on this amendment until the amendment that Mr. Norris has is considered. I would like to be called upon after his amendment has been considered.

PRESIDENT NISBET: Do you care to withdraw your amendment at this time?

MR. AUSTIN: At this time; but I would like to be called on after his amendment has been considered.

SECRETARY CHASE: Mr. Norris offers the following amendment to the substitute amendment:

1. Amend the amendment, second paragraph, first sentence, after "issue" by inserting "and obtain court enforcement of"; so the language will there read:

... through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue and obtain court enforcement of appropriate orders.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: Mr. President, fellow delegates, the general thrust of the entire problem of creating a civil rights commission in the constitution began with the touchstone of the committee report which did not have, at that juncture, a self executing provision in the constitution regarding such a commission. The general amendments that have been made since that time have been in the direction of securing a self executing commission. It is the intent of the proposed language here to implement the self executing character of the proposition we have before us. Over the weekend I spent considerable time trying to evaluate some of the language to which we had been giving deliberative care in relation to the matter before us.

If we are to create a commission which has the authority to issue appropriate orders, if there is a provision here regarding review, as there apparently is in terms of the general laws governing administrative agencies, it seems to me that the gap must be filled between the issuance of the order and the obtaining of the review by insertion of language regarding the enforcement of the order. There are, of course, by the law in relation to administrative agencies, the standards or tests of review of those who may be adversely affected by the order of the court and the order of the commission. This is a very important provision that we have before us. I urge that it be favorably considered and adopted. I think it is intrinsic to the general spirit and letter of Committee Proposal 71, section i, as amended, and offered by Mr. Van Dusen and others.

I have some other reservations regarding some of the other sections, lines of this particular amendment, but I do think that this would comport with their intent. I don't think it is a strain or any seismic innovation against what they have in mind. I do think that it would implement it and I think that it is the general thinking of those who have professionally studied the operation of the F.E.P. law here in the state of Michigan, and its operation, and particularly in relation to 2 decisions, one involving the city of Highland Park, that such language be inserted in this formulation. I respectfully urge favorable consideration by this body of the appropriate language suggested.

PRESIDENT NISBET: The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President, I would like it understood that I am simply making a few comments in regard to Mr. Norris' amendment, and I would still like to be called for my own amendment following the decision on this one. I agree with Mr. Norris that there is a gap that needs to be filled. If we are going to make this commission effective, we ought

to make it clear that whatever orders are to be issued are enforceable in court, and I would certainly recommend that we vote yes on this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, if I might direct a question or perhaps 2 to Mr. Norris.

PRESIDENT NISBET: Mr. Norris, do you care to answer?

MR. VAN DUSEN: Mr. Norris, your amendment takes me somewhat by surprise and because there are so many cosponsors on this proposed substitute, I am in no position to take a position pro or con on it. I would like to have one point clarified, however. Is it your intention that if your amendment were adopted the commission would be automatically entitled to enforcement by a court of any of its orders merely upon the application therefor, or would it be your intention that before a court would issue an order enforcing a commission order it would have to go through a hearing at which the court would make determinations as to the factual basis for the commission order and the desirability and legality of the commission order?

MR. NORRIS: First of all, under the F.E.P. practice, as now exists, which I suspect would be a model for the operation of this commission, they would go through the voluntary procedures that they have. First a complaint is filed. There is an investigation conducted. If necessary, if there is a case in which there is probable cause, there is a hearing for the determination about the nature of the probable cause. Then an order is issued.

If there is noncompliance with the order of the commission, it would then, under this language, have the right to go to court to implement its order, and the party who would be adversely affected by the pursuit of this avenue by the commission would have a right of review, which review, according to the language which you have submitted, sir, would be in accordance with the general laws governing administrative agencies.

MR. VAN DUSEN: Mr. President, well, I don't think, Mr. Norris, you have precisely answered my question, and it is for that reason that I remain somewhat troubled by your amendment.

MR. NORRIS: I am trying.

MR. VAN DUSEN: That is, I would like, if possible, some description of the kind of proceeding which might take place in court upon the application by the commission for an order enforcing its own order.

MR. NORRIS: Well, I would prefer that the review by the court be by certiorari. But you have here a provision which says, "general laws governing administrative agencies," so that if this is an administrative agency, and you apparently are defining this commission as an administrative agency in the context of this language, then the review by the court of the order issued by the commission would be in accordance with the standards of the general laws governing administrative agencies. The only function here of the opportunity on the part of the commission to go to court would be in the event that there would be noncompliance on the part of the person to whom the order was directed, with regard to nondiscriminatory activity, and the party to whom that order was directed would have a right of review by the court.

MR. VAN DUSEN: Mr. President and Mr. Norris, I am perfectly aware of the scope of review available to a party aggrieved by an order of the commission. I am not, however, certain of the nature of the proceeding and the rights of the parties to the proceeding which might take place in the event the commission found noncompliance with one of its orders and sought to enforce compliance. My question is, what would take place in court when the commission applied for an enforcement order? I am not talking at this point about review. I am talking about an application by the commission for an enforcement of an order.

I might say, before Mr. Norris answers the question, that the reason for my difficulty on this point is that the precise

point now covered by the Norris amendment was not embodied in the provision adopted by the committee of the whole and I therefore had no opportunity to review it prior to this immediate moment.

MR. NORRIS: Well, I appreciate, Mr. President, Mr. Van Dusen, the point that you raise that it was not in the original matter, but I take it that since the matter was first introduced, there has been considerable intellectual gestation on this matter in regard to all points of view with regard to it.

As a product of my concern, I have offered this proposed language. I see no difference here between any cease and desist order by any administrative tribunal being directed toward—that is, you have a complaint; you have a hearing; you have an order. The order says, cease and desist from the discriminatory activity. The party continues to engage in the activity. Then the commission has to make up its mind as to whether it wants to go to court. It goes to court and asks for the appropriate relief to be directed by the order to the people continuing the activity. The parties who are adversely affected also can come into court and say that the order was issued without compliance with the rules and regulations of the commission, or it was invalid or unconstitutional and all the normal defenses can be available to the party who is adversely affected.

I don't think that the rights of the party who would receive the order are in any way jeopardized by this particular matter. It is just that if you are going to have a self executing commission, it ought to have the right to go to court to get its order implemented. If you do not give them that right, and if the legislature here, as provided in lines 17 and 18, says, "The commission shall have such other powers as may be provided by law to carry out its purposes," and no court enforcement avenue is given to the commission, I think it is very seriously weakened. As a matter of fact, I think it is decisively weakened, so much so that I raise the question of support for it, although I commend the thinking that is involved here. I know of no other way of answering Mr. Van Dusen's question, other than what I have indicated.

I don't think this involves anything different from what you had in mind, sir, with regard to this matter. I am sure you intended that before any order of the commission took effect, which somebody adversely affected didn't want to follow, there would be a challenge in the court.

MR. VAN DUSEN: Mr. President, if I may, I don't want to protract this colloquy between Dr. Norris and myself, I would state that the difficulty which Mr. Norris and myself have had in reaching a common understanding on this is such that would impel me, at this point, to oppose the amendment. I would suggest that if it is one which Dr. Norris feels is desirable, I would be glad to give some further consideration to it with him between now and the occasion when this will again be before us on second reading. I am not completely unsympathetic toward it, but frankly, I don't have sufficient understanding of its implications, at this point, to support it, and I would only say that one of the reasons that I don't have that understanding of it at this point is because it was not a part of the amendment originally offered by Mr. Austin and adopted by the committee of the whole. Therefore, I respectfully oppose the amendment at this time.

PRESIDENT NISBET: May the Chair break in. Mr. Heideman has to catch a plane. He asks to be excused. Without objection, the excuse will be granted. There is no objection, Mr. Heideman.

SECRETARY CHASE: We have a request from 2 of the delegates to have the amendment projected on the wall. I believe you each have this particular amendment offered by Mr. Van Dusen and others—the amendment by Mr. Norris is in the process of preparation, so we can't project it.

PRESIDENT NISBET: The Chair recognizes Mr. King.

MR. KING: Mr. President and fellow delegates, my question was coincidentally along the same lines as Mr. Van Dusen's, and I would like to ask this question of Professor Norris: it would seem to me that what you are really asking is that we

include the words, "and to request court enforcement of appropriate orders." Is that not so?

PRESIDENT NISBET: If you care to answer, Dr. Norris.

MR. NORRIS: I had thought of the word "obtain" in the sense of "request." I think the word "request" is perhaps more clearly expressive of the intent. If I may, I would like to revise my amendment, sir, to use the word "request" instead of "obtain."

SECRETARY CHASE: Mr. Norris revises the amendment to the substitute amendment to read as follows:

1. Amend the amendment, second paragraph, first sentence, after "issue" by inserting "and request court enforcement of".

PRESIDENT NISBET: The Chair recognizes Mr. Bledsoe.

MR. BLEDSOE: Mr. President, may I ask Mr. Van Dusen a question if he cares to answer?

PRESIDENT NISBET: Mr. Van Dusen.

MR. BLEDSOE: Mr. Van Dusen, would it not be determinable that the issue that you have raised would be governed by procedural law? Could we at this juncture indicate in this instrument just what remedy the administrative tribunal might seek of the court? As you know, we have several; one could be by a show cause, possibly certiorari, mandamus or other extraordinary writs. Is it your position that you want to know which one or either of these may be sought in the enforcement of an administrative tribunal order?

MR. VAN DUSEN: Mr. President, Mr. Bledsoe, the thing which troubles me here is that we are writing into the constitution powers which are essentially statutory in character. I am perfectly prepared to write them in, and, quite obviously, the substitute amendment which Mr. Richards and Dr. Hannah and myself and many others have offered indicates that willingness. However, whenever you write something into the constitution, it is there for a long, long time, and therefore, I am reluctant to write into the constitution anything which I do not fully understand at the time. This has been offered suddenly without any prior warning to myself. I am sympathetic to the idea of court enforcement of the orders of the commission. However, I would want to have very carefully spelled out the basis on which the commission should apply and the opportunity for a hearing which all of the parties to the proceeding might have. I think that is essentially statutory in character and, frankly, until I am persuaded otherwise I would prefer to leave the substitute in the precise form in which it is presently offered, and for that reason I continue to oppose the amendment.

MR. BLEDSOE: Mr. President, Mr. Van Dusen, wouldn't that still be determinable by the type of remedy you sought to have or relief you sought from the tribunal?

MR. VAN DUSEN: Mr. President, I think I have given all the answer to Mr. Bledsoe that I can on this. If I thought I could amplify it, I would.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, I think Dr. Norris has made a contribution here. My first inclination would be to support this amendment; I am persuaded, however, that I should vote no at the moment, but I would hope that this would be pursued in connection with some of the other questions and answers that have been given here on the floor, and I think Delegate Bledsoe raised another one that has been in my mind. I had intended to say nothing at this first reading and vote in favor of this amendment. I think that the amendment has been very much improved.

As you know, I had originally felt that it was a statutory matter and should be left to the legislature, but that inasmuch as we were going to place it in the constitution, we should place it there carefully and work out the details carefully. I think most of the details have been worked out very carefully. The only area that I am concerned about is the area that Dr. Norris has raised and Delegate Bledsoe, and in this connection, between first and second reading I would like the committee that worked on this provision to also consider the question raised by Delegate Bledsoe, as to what types of orders are included in appropriate orders which the commission would seek the court to enforce, and in particular, I am thinking

about the body of legislation in the civil rights area wherein money judgments are rendered, for instance. I think it should be clear and worked out. I think a contribution has been made here. My indication of voting no at this particular point is solely that I would like to see the committee work that out.

PRESIDENT NISBET: The question is on the amendment of Mr. Norris to the substitute. Those in favor will vote aye. Those opposed will vote no.

The amendment is not adopted.

SECRETARY CHASE: Mr. Austin and Mrs. Elliott offer the —

MR. NORRIS: Am I too late, Mr. President, in asking for the yeas and nays on it?

PRESIDENT NISBET: You ask for a division, Mr. Norris?

MR. NORRIS: Yes, and roll call, if I may.

PRESIDENT NISBET: A roll call vote has been asked. Is the demand seconded? Sufficient number up. This is a roll call vote. Those in favor of the amendment of Mr. Norris to the substitute will vote aye. Those opposed to the amendment will vote nay. This is a vote on the amendment of Mr. Norris to the substitute. Those in favor of Mr. Norris' amendment will vote aye. Those opposed will vote no. 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 — 38

Austin	Garvin	McCauley
Balcer	Greene	McGowan, Miss
Binkowski	Hannah, J. A.	Murphy
Bledsoe	Hart, Miss	Nord
Buback	Hatcher, Mrs.	Norris
Cushman, Mrs.	Hodges	Perlich
Dade	Hood	Staiger
Douglas	Jones	Stopczynski
Downs	Kelsey	Suzore
Elliott, Mrs. Daisy	Lesinski	Wilkowski
Faxon	Madar	Young
Follo	Mahinske	Youngblood
Ford	Marshall	

#### Nays — 77

Allen	Higgs	Richards, J. B.
Batchelor	Howes	Romney
Beaman	Hoxie	Rood
Bentley	Hubbs	Rush
Blandford	Hutchinson	Seyferth
Bonisteel	Iverson	Shackleton
Boothby	Karn	Shaffer
Brake	Kirk, S.	Shanahan
Conklin, Mrs.	Knirk, B.	Sharpe
Cudlip	Koeze, Mrs.	Sleder
Danhof	Kuhn	Spitler
Dehnke	Lawrence	Stafseth
Dell	Leppien	Sterrett
Doty, Dean	Martin	Stevens
Durst, Donald	McAllister	Thomson
Durst	McLogan	Tubbs
Elliott, A. G.	Millard	Turner
Erickson	Nisbet	Tweedie
Everett	Page	Upton
Farnsworth	Perras	Van Dusen
Figy	Plank	Wanger
Goebel	Pollock	White
Gover	Powell	Wood
Habermehl	Prettie	Woolfenden
Haskill	Pugsley	Yeager
Hatch	Radka	

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Norris to the substitute, the yeas are 38; the nays are 77.

PRESIDENT NISBET: The amendment is not adopted. The question is now on the substitute.

SECRETARY CHASE: Mr. Austin and Mrs. Daisy Elliott offer the following amendment to the substitute:

1. Amend the amendment, first paragraph, second sentence, after "constitution" by inserting a comma and "including but



not limited to civil rights to equal opportunity in employment, education, housing and public accommodations."

PRESIDENT NISBET: The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President and members of the convention, on Thursday evening, March 29, sitting as a committee of the whole, by a very decisive vote of 74 to 43 the committee freely derived, with the delegates voting their individual consciences, an admittedly essential civil rights commission. This commission that we adopted on Thursday was a satisfactory and effective commission. It was self executing. There may have been some minor drafting defects in the provision, but we did have satisfactory agreement on the concept.

We are now asked to accept a substitute which is less effective, bearing in mind, of course, the high purposes we are seeking to accomplish. There is no need at this time to enumerate our purposes because they have been very adequately enunciated by previous speakers. In the substitute amendment, which has been submitted there are admittedly some notable changes that tend to strengthen the amendment as adopted by the committee of the whole. There are some style and drafting improvements. We have cleared up some of the ambiguities, especially with regard to the so called Donnelly amendment, and we have deleted the so called Wanger amendment. The sponsors have kept me, as well as other sponsors of the so called Austin amendment, well informed of their deliberations, and I must say at this point that I am deeply appreciative of their efforts in this behalf.

However, there are some notable weakening changes that have been made. For example, we have deleted reference to the provision for sufficient funds. We have increased the size of the commission. I don't mind admitting that originally the sponsors of the so called Austin amendment felt that the commission should have 8 members, but we were persuaded by the executive branch committee that it might be more effective to have a 4 man committee. I don't think that we need to make a great issue of whether it should be 4 members or 8 members. I think we can go along with the 8 man commission instead of the 4 because it does permit broader participation.

There are other weaknesses, though, and the one that we are most concerned about is the deletion of reference to specific fields of discrimination. These are the major fields of discrimination: employment, education, housing and public accommodations. I am a little disturbed that the sponsors of the substitute do not wish to enumerate these fields of discrimination. They do not create any new rights. They are not enumerated elsewhere in the constitution and yet the executive committee, in submitting its report on recommending that we establish a civil rights commission, did list them and inferred, not only inferred, but stated that the commission should direct its attention to all of these fields.

There is one other point which I think should be made in regard to the deletion of these specific fields of discrimination, and that is that on Thursday night the committee of the whole included these fields in the amendment that it adopted at that time. There is some serious question as to how the deletion of these fields will be interpreted by the courts at this time. We are concerned also that the powers of the commission have been reduced. We have now stated that the powers are in accordance with general laws governing administrative agencies, and they are certainly more vulnerable to legislative adjustment. Despite the fact that the weakening changes in the substitute amendment are numerous, I shall not at this time, on behalf of my cosponsors, seek to remove all of them. Neither shall I seek to remove the advice and consent clause which my cosponsors and I find objectionable.

It is our intention to attempt to be reasonable and practical and to approach the whole matter in a spirit of compromise. Let me remind you again that when we adjourned on March 29, we had come a long way in that we had reached agreement on an effective commission. Any changes we accept at this time that make the commission less effective and less independent than it was when the committee of the whole adopted it would, in effect, be a retreat from the commendable advance that we had made at that time. In a spirit of com-

promise I am going to suggest, subject, of course, to consideration of the Norris amendment, which the sponsors of the substitute have agreed ought to be subject to more study, I am going to suggest that we adopt the substitute, including these weakening changes, with one exception, and that is that we reinsert reference to the major fields of discrimination. I feel that this is a must. They do not create any new rights. They are not enumerated elsewhere in the constitution. The executive committee enumerated them in its report and the courts may construe omission as indicating that we do not intend the scope of the commission to extend to all of these major fields of discrimination. This construction is exceedingly important in view of the fact that we have already agreed that the scope of the commission's probative duties and powers should extend to all of these fields. Our deletion of this language could mean that we intend a narrowing of the scope of duties. I therefore offer this amendment to the substitute and I urge its adoption. If we do not vote for this amendment, I submit that we will have retreated from our initial position and will thereby weaken our commission. We cannot afford to do this. Mr. President and fellow delegates, I urge the adoption of this amendment and I request the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Sufficient number up. The Chair recognizes Mr. Binkowski.

MR. BINKOWSKI: Mr. President, ladies and gentlemen, for the record I would like to defer to Mr. Van Dusen because I think that this point should be clarified, in case we have a judicial review of this section so that it is clear that if this convention does not go on record as adopting the Austin and Elliott amendment, certainly it is not to be construed that we do not want a civil rights commission operating in those enumerated areas.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would answer Mr. Binkowski's question very clearly: I don't think that the substitute amendment intends any substantive difference in this area. I thought I made that reasonably clear in my opening remarks. The only reason for omitting the 4 enumerated areas of discrimination was that in view of the report of the committee on declaration of rights, suffrage and elections in connection with Committee Proposal 26, that committee made it very clear that among the civil rights protected by the constitution and among the civil rights, therefore, to be within the area of concern of this commission, are the matters of equal opportunity in employment, education, housing and public accommodations. If I may, in further response to Mr. Binkowski's question, I would like to just read very briefly from this report, in which the committee on declaration of rights stated:

Several factors have impressed the committee with the advisability of incorporating an equal protection and civil rights section in the new constitution. Delegate John Hannah, who, it will be observed, is the chairman of the United States commission on civil rights, gave impressive and moving testimony before the committee upon the wisdom and necessity of such a clause to protect negroes and other minorities against discrimination in housing, employment, education and the like.

Later on in the the same report they state that "The principal, but not exclusive, areas of concern are equal opportunities in employment, education, housing, and public accommodations."

The only reason for the omission of these specific areas of discrimination from the substitute amendment now under consideration was that it would be redundant to mention them in the light of the action already taken with respect to Committee Proposal 26, and further, that it would be construed perhaps as a limitation upon the powers of the commission, which was not intended by the sponsors of the Austin amendment or by the sponsors of the substitute now before the convention.

PRESIDENT NISBET: The Chair recognizes Mrs. Hatcher.

MRS. HATCHER: Mr. President, a question to Mr. Van Dusen or a comment to Mr. Van Dusen. I think, as a matter

of clarification, you mentioned the report of the declaration of rights, suffrage and elections committee. I think the material that you are reading and referring to, in answer to Mr. Binkowski's question or inquiry, is in the report of the declaration of rights, suffrage and elections. It is not part of the content that we recommended to be inserted in the constitution. I believe at the time that we adopted Committee Proposal 26 into the constitution, we mentioned the question of equal protection and we mentioned civil rights, but we did not spell out the meaning of civil rights. I believe in our committee meeting we accepted the language to be inserted in the comments that the areas of civil rights would mean housing, education, public accommodations and the like. We felt that this was a strengthening feature, inasmuch as Committee Proposal 26 did not carry these explanatory areas of civil rights. I just wanted to clarify your answer. I think it adds some clarity to what you answered because a person listening to you may get the impression that we recommended that language that you just read for the constitution content, but it is not for the constitution. It is for the comment and for the committee's report.

MR. VAN DUSEN: Mr. President, Mrs. Hatcher is entirely correct, of course. The civil rights provision of Committee Proposal 26 is, of course, a short and general one. I was reading from the report of the majority of the committee on declaration of rights, suffrage and elections in explanation of Committee Proposal 26, which will be a part of the constitution.

PRESIDENT NISBET: The Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. President and ladies and gentlemen of the convention, having heard many of these arguments previously and with the hope that we can finish the report relative to Committee Proposal 71 tonight, I would move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is that demand seconded?

MR. DOWNS: I have a preferential motion.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: To move the previous question after 20 more minutes debate.

PRESIDENT NISBET: Mr. Downs, your motion is to limit debate to what?

MR. DOWNS: To 20 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Downs to limit debate to 20 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. Debate will continue until 5:45. The Chair recognizes Mr. Pollock. Pardon me. Mr. Downs.

MR. DOWNS: No, I just wanted to get my name on the list within 20 minutes, if possible, Mr. President.

PRESIDENT NISBET: Okay, the Chair hopes you can make it. Dr. Pollock.

MR. POLLOCK: Mr. President, I merely wanted to make this observation, as the chairman of the committee on rights, suffrage and elections, that precisely this same point as Mr. Van Dusen has pointed out was thoroughly discussed in our committee. It was then thoroughly discussed on the floor of this convention in connection with the minority report which Mr. Norris prepared, and we agreed, unanimously, a little bit later, that these words were not necessary; they were not good constitutional language, and that it is nobody's intention to exclude these areas, but that it is not wise to put them in the constitution. It seems to me that we have now gone so much farther than my committee had imagined. We thought that everyone would be so satisfied and happy with the civil rights amendment that to carry it on to set up a commission and put the commission in the constitution, and now to add this very specific language, seems to me to be going so far it isn't very good constitution making. Therefore I am opposed to this amendment and I see no reason why it needs to be discussed, because precisely the same words were discussed in connection with their possible insertion into the constitutional amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Hodges.

MR. HODGES: I have a question for Mr. Van Dusen.

PRESIDENT NISBET: If he cares to answer.

MR. HODGES: Mr. Van Dusen, I gather from your remarks that you would feel that this would include these fields of inquiry anyway. Wouldn't it seem, since this is the main differing point between many members and we are desiring bipartisan support, and since we are all agreed that these fields should be covered, to solve or at least arrest the fears of those that think this ought to be in, if we could get together and support the inclusion of these, if that is the intent?

MR. VAN DUSEN: Mr. President and Mr. Hodges, I feel that it is extremely important that action which is taken by this convention in this field have the broadest possible degree of support from all of the delegates to this convention. I was very grateful for the very gracious remarks of Mr. Austin with respect to the spirit in which the substitute is offered, with respect to the degree of cooperation which has gone into the drafting of this substitute. The inclusion of the matter covered by the amendment offered by Mr. Austin does appear to be a point of difference.

I, personally, as I have stated in response to Mr. Binkowski's question, believe, and I believe all of the delegates believe, because it is stated in the majority report supporting Committee Proposal 26, that these enumerated areas are clearly covered by the scope of the work of the commission. I do not believe it is necessary to include them. I think that if they are not included we will have a broad degree of support for the substitute. I hope that all of the delegates will vote for it.

MR. HODGES: Well, my only comment would be, then, from Mr. Van Dusen's remarks, that we are obviously agreed that these areas of endeavor should be considered, and it would seem to me that when there is a genuine request from many members that feel that this language is necessary, and we all agree that the intent should be there, adding 5 or 6 words to the constitution would really not take away anything since it is merely going to be declaratory of what Mr. Van Dusen and the other members of this provision state that it means. If this is so, I submit that we can easily solve this difference and get on with the vote by just according to those that feel that this is necessary, the inclusion of this language.

MR. VAN DUSEN: Mr. President, if I might respond, very briefly, further to Mr. Hodges, I can say, only as Professor Pollock very ably said earlier, that there are many of us who believe these words are unnecessary.

PRESIDENT NISBET: The Chair recognizes Mr. Young.

MR. YOUNG: Mr. President, ladies and gentlemen, I think that this convention started off with high hopes based on its relatively unique bipartisan organization. Certainly those of us in the minority party had no right to expect, based on precedent and other legislative bodies, that a strict 2 to 1 relationship would abide among the officers and in the committee assignments. I think that the people of Michigan in electing delegates to the constitutional convention expected and, indeed, demanded this type of bipartisan consideration of all of the basic matters spelled out in our constitution, and it was at a point and at the point that this convention deserted the bipartisan road that we have run into trouble. It is my firm belief that when this convention arrived at a point that it was impossible to settle issues by a free exchange of ideas and debate between the 2 parties, and determined that all basic decisions would be made by deals within 1 party alone, then this convention took the road toward the eventual betrayal of the hopes of the people of this state.

Last Wednesday and Thursday we debated this matter of the civil rights commission. My hopes for some type of successful convention that had been seriously weakened by the deal, by the desertion of bipartisan consideration, were somewhat revived by the fact that we attempted to approach this civil rights commission and this matter of civil rights on a bipartisan basis and irregardless of partisan politics. But now it would seem that civil rights has been thrown into the deal and the question remains whether it shall be dealt off the bottom or the top of the deck. It is unfortunate that we should have to consider what shall happen within a civil rights com-

mission exclusively within 1 party. It is unfortunate that the ideas of what is necessary and what is not necessary in a civil rights commission should be exclusively the property of 1 party.

I might indicate, as an aside, that those of us in this convention who are most affected by the issue of civil rights happen to be members of that party which is excluded from any consideration.

Certainly I respect Mr. Van Dusen's judgment, Dr. Pollock's judgment that it is not necessary to include this specific language, but it is my humble opinion, as one who has been a constant victim of discrimination, that this language is necessary. I campaigned as a delegate to this convention on a program of spelling out civil rights. I can tell you that almost a million negro citizens in the state of Michigan want their rights not only generally included and inferentially guaranteed in a supporting statement, they want those rights spelled out, and that is, in my opinion, what the debate before us amounts to. If it is true that there is no vitiation of the Austin amendment by the language which is before us, if it is true that there is no intent to weaken, if the committee on declaration of rights meant what they said when they refused to spell it out in the constitution, but did spell it out in supporting language, then what can the objection to spelling it out be? What is the difference between having it in the constitution and in the supporting language? I think the difference is quite clear. The rights are not spelled out and are not guaranteed in the constitution if you have to resort to supporting language. I must believe, I am forced to believe that there must be some further objection other than a style and drafting objection to the including of this specific language.

I would like to ask a minimum honesty from any of those who insist on deleting this language, just which of these specifics do you object to? Is it employment? Education? Housing? Or public accommodation? Certainly, if the fear is that in spelling out the language we will narrow the constitution, I think that is covered in the first clause on the wall which says, "including but not limited to civil rights." So it seems to me that if we are to do what we started out to do last week and take concrete and specific steps to guarantee civil rights, and if we mean, as we say in the supporting statements, that it includes the opportunities for civil rights in employment, education, housing and public accommodations, well, then, let's say what we mean in the constitution. I believe it is just that simple.

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President and fellow delegates, I rise in favor of the Austin amendment. I believe that Mr. Austin gave more than adequate reasons for that, as well as other delegates speaking about it. I would just like to comment very briefly about those who say we don't need this. I am pleased that at least those who on the floor have said we don't need this have said that these provisions are in there by implication. This I am pleased to hear. I would just call to the delegates' attention, though, that constitutions are not mere words. They are human documents reacting to the needs of the time and it has fascinated me, in studying our earlier constitutions of Michigan, as well as those of other organizations, that there is almost always in those the problem that was the deepest and most specific, spelled out even in statutory language. The reason was that those things people feel the strongest on, they feel should be written into the basic document. This problem is one that I believe our delegates and societies agree is one of the most serious, if not the greatest, challenge to America, if not to the world, and this is the reason I favor the inclusion. I do hope that when the next constitutional convention meets, the delegates will decide to delete this because it is completely unnecessary and will move on to other problems because we will have set the tone for the solution of these problems before us. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President, I would like to direct a question to Delegate Austin, if I may.

PRESIDENT NISBET: If he cares to answer.

MR. HIGGS: My question is this: is it your intent in inserting this language to create any civil rights or to define any civil rights beyond the civil rights presently guaranteed by law or by this constitution in other sections?

MR. AUSTIN: Mr. President, Mr. Higgs, it is not our intention to create any new rights, only to focus attention on the fields in which we have discrimination.

MR. HIGGS: Thank you. Well, Mr. President and fellow delegates, I think that we should pay particular attention to what Delegate Van Dusen has stated. Real progress in this field will only come through the broadest support, not only on the part of the delegates here assembled but upon the part of the people of the state of Michigan who will be called upon to pass upon the work we do. It will not come by partisan bickering, by appeals to prejudice in the name of civil rights, or any such emotional reasons. I urge that you vote against this because it is unnecessary. I think it may raise questions that are not intended to be raised and I think if you believe in the real sincerity of this purpose, you will oppose it.

PRESIDENT NISBET: The Chair recognizes Mrs. Elliott.

MRS. DAISY ELLIOTT: Mr. President, fellow delegates, I think that all of the delegates can recall Thursday, March 29, 1962, when bipartisan delegates were communicating one wonderful half hour and issues were being resolved on the floor. They will recall that the weekly newspapers and radio stations were communicating with the delegates to confirm the news that Democrats and Republicans had finally gotten together on one of the most important issues facing our state and nation. The minority delegates, among the minority, will long remember the morning of Friday, March 30, when Delegate D. Hale Brake moved for a 5 day delay for further consideration of the report on Committee Proposal 71. A delay from action after days of debate and when delegates were ready to vote on a civil rights commission which was self executing, with teeth, and stated simply and clearly the intent and rights, the declaration of rights of all persons to opportunity including employment, housing, education and public accommodations as explicit political civil rights.

Mr. Martin, our chairman on the executive committee, stated emphatically, in the supporting reasons regarding the civil rights commission, that we may not be able to prevent discrimination in many cases but he believed that we would not evade our responsibility to do whatever is in our power to prevent it; also that the need is now and that the purpose of this committee was to take the necessary steps and declare its aims and purposes. If this was the intent, as Mr. Van Dusen and Dr. Pollock stated, concerning these provisions of including employment, housing, education, public accommodation, I fail to understand why they were not included in the constitution. This substitute offered here has tended to deviate from the proposed amendment adopted in the committee of the whole. It is decidedly weakening, is much weaker than the previous language adopted in the committee of the whole, and certainly I am surprised that Dr. Hannah would join a revision, after his forthright position taken here on this floor supporting a strong civil rights that contained these provisions which we are now asking for.

Michigan's residents have expressed a growing awareness of discrimination procedures. The question of civil rights is now an issue which is being widely discussed and much debated and has caused much concern. It is regrettable that the course of a nation or the future of the world should have to hinge on the fact that there are depressed people and there are people still under the yoke of despotism and living in a form of slavery. You wonder why this issue should be so important. Let us examine the question in the United States. We, being the personification of freedom in the world and the leader in the fight for a free people, with rights and privileges accorded to all men, have failed, in our own right, to recognize the minority groups in our backyard. Some of the delegates have said to me, what does the negro, as one minority, want? Why are they pushing so hard for these rights? We are going to give them to them but it takes a little time for these things. I guess, Mr. President, you would have to be in the position

of a negro to understand what is in their hearts and souls. To ask for the rights accorded to one under our constitution is not pushing. To want equal opportunities is not being impatient. To want to be free is not wanting to impose upon a society that has been closed to you. The negro has just reached the point to know and recognize what he needs for a better way of life and is willing to fight, and if need be, die for it.

The real problem in attacking the question of segregation and discrimination is not a question that can be resolved by legislation; nor can it be resolved by force. You cannot overnight stop a tradition and a way of life, although known to be wrong, is nevertheless a situation that has been conveniently overlooked. In a free America, we cannot control the thoughts of men and women and I don't believe we would want to. We must learn to accept in our minds and hearts that this is wrong; this is not good for our nation or our people. When this point has been reached, then even partially, if not totally, the end of racial strife is near, if not finished. Mr. President, we should not hope to be accepted solely on the basis that we are Americans —

PRESIDENT NISBET: Mrs. Elliott, the Chair is sorry, the time has expired.

MR. FARNSWORTH: Mr. President, I move that the time be extended to Mrs. Elliott to complete her statement.

PRESIDENT NISBET: The question is on the motion of Mr. Farnsworth that time be extended to Mrs. Elliott to complete her statement. Those in favor will say aye. Opposed, no.

The motion prevails. You may continue.

MRS. DAISY ELLIOTT: Thank you, Mr. President and fellow delegates. Further, the negro, along with coming of age educationally, politically and socially, must become in part a self sustaining people by investing in our industry, greater participation in business and greater overall participation in governmental and community affairs. Therefore, as I stated before, we would not hope to be accepted solely on the basis that we are Americans, but we are a part of the whole and not a segment of the least. The world that we are now living in presents the challenge to all people more vividly now than ever before in history. There is no place for any nation or any people or any group that would deny the rights of free men.

Mr. President, I would like to sum up in these few words just how I think the average negro feels: the children of Israel in their exodus from Egypt into the promised land, having been lost in the wilderness for 40 years, saw in view the promised. Joseph, their leader at that time, became ill and could go no farther. Dying, he delegated to the leadership a duty. He told them that when they reached the promised land, to return and dig up his bones because free bones would never rest easy in a slave grave. This is generally the feeling of negroes today, not so much what we would accomplish for our day and time, but to delegate unto the future generations of negroes a better way of life and a greater chance to be free, and when they have reached the promised land, come back and dig up our bones, for free bones will never rest easy in a slave grave. (applause)

PRESIDENT NISBET: The time for debate has expired. The question is on the Austin-Elliott amendment. Mr. Madar.

MR. MADAR: Mr. President, I am asking for the yeas and nays, a recorded vote, and to call in all of the delegates.

PRESIDENT NISBET: The yeas and nays have been ordered. This is a record roll call vote. The question is on the Austin-Elliott amendment. Those in favor will vote aye. Those opposed will vote no. Mr. Madar.

MR. MADAR: I believe what I was asking for was a call of the convention. We want everybody in here on these votes.

PRESIDENT NISBET: Would the pages see if there are any delegates in the hall and ask them to come into the chamber. 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	Greene	McLogan
Balcer	Hannah, J. A.	Murphy
Bentley	Hart, Miss	Nord
Binkowski	Hatcher, Mrs.	Norris
Bledsoe	Hodges	Perlich
Buback	Hood	Prettie
Cushman, Mrs.	Jones	Romney
Dade	Kelsey	Sablich
Douglas	King	Stopczynski
Downs	Lesinski	Suzore
Elliott, Mrs. Daisy	Madar	Tubbs
Faxon	Mahinske	Wilkowski
Follo	Marshall	Young
Ford	McCauley	Youngblood
Garvin	McGowan, Miss	

#### Nays — 73

Allen	Habermehl	Pollock
Andrus, Miss	Hanna, W. F.	Powell
Batchelor	Haskill	Pugsley
Beaman	Hatch	Radka
Blandford	Higgs	Richards, J. B.
Bonisteel	Hoxie	Rood
Boothby	Hubbs	Rush
Brake	Hutchinson	Seyferth
Conklin, Mrs.	Iverson	Shackleton
Cudlip	Judd, Mrs.	Shaffer
Danhof	Karn	Shanahan
Dehnke	Kirk, S.	Sharpe
Dell	Knirk, B.	Staiger
Donnelly, Miss	Koeze, Mrs.	Sterrett
Doty, Dean	Kuhn	Thomson
Doty, Donald	Leibrand	Turner
Durst	Leppien	Tweedie
Elliott, A. G.	Martin	Upton
Erickson	McAllister	Van Dusen
Everett	Millard	Wanger
Farnsworth	Nisbet	White
Figy	Page	Wood
Finch	Perras	Woelfenden
Goebel	Plank	Yeager
Gover		

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Austin and Mrs. Elliott, the yeas are 44; the nays are 73.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Garvin and Hood offer the following amendment to the substitute:

1. Amend the amendment, second paragraph, second sentence, at the end thereof, after "purposes.", by striking out the balance of the section.

PRESIDENT NISBET: The Chair recognizes Mr. Garvin.

MR. GARVIN: Mr. President and delegates, this amendment, of course, as mentioned, is to strike out after "purposes," the portion which states, "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." I submit to the delegates, just in case you don't know, that this just happens to be a sleeper in the entire section, in this entire amendment, because it practically eliminates, as the proposer last week of this part admitted that it did, the 8 persons that you have here. It eliminates the commission because anyone can go to court and bypass the commission.

Is that wise? Is it wise to bypass the commission, and why? First, the commission investigates. If you go directly to court, there is no investigation and as a result, everyone is in court on their own. This does not mean the claimant or whoever he might be or the defendant or the respondent; it means either one of them. I imagine what would happen is this: once someone makes a complaint, there is no investigation or anything. If the other party, the other side, wants to say, "We will take this to court," that eliminates the commission and its investigatory powers, and it just might be, you know,

that the person who is requesting this can afford counsel while the person whose rights have been violated cannot afford counsel. It will be one thing after another over a long period of time so that the commission may not be of any effect whatsoever, particularly when there are situations involved in which one can have a court hearing, can employ counsel and can go to further extremes and the other one cannot afford to do the same. That is what this does.

In addition to that, we notice in lines 12 and 13, 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 so forth. Now, we have it. This is just a duplication. You have it in Committee Proposal 95 brought in by the judicial branch, where all administrative agencies can have their rights in court and their day in court, which should include this commission. Is this commission any different from any other? Is there any reason why you say we are establishing a commission with 18 lines, and taking it out in 2½ lines? That is what is happening here today with this amendment of Mr. Van Dusen and others.

We have gone through this Thursday and part of Friday, perhaps, and this afternoon, with all of this good wordage, 8 persons, and the commission has the power to investigate, and then on top of that provides they can do other acts under our own Committee Proposal 95, governing administrative agencies. But then we slip in here and say, "or you can take that back to your constituents which, perhaps, you already know, and you can tell them that this really doesn't mean anything because you can go directly to court and you do not have to go through the commission." Now, I am bringing that to you, so no one can say that they didn't understand that that is what this last sentence is all about — exactly that; so there will be no commission whatsoever to investigate. So if a person isn't financially able to go to court, well, in that case it is too bad, because he can't get to the commission either.

There is absolutely no way in the world, under this paragraph, a person can get to the commission unless both parties agree to go to the commission. Any person can say, either one of the parties can say, "We don't want the commission. Goodbye. I'm going directly to court." I think, as I have stated before, that the judiciary of Michigan is one of the best in the United States at this minute, meaning by that, while we are in con con here. I don't know about later, but I know it is one of the best in the United States at this time. But that isn't the point, of getting justice in court or not. The point is, you may never get to court. The person whose rights are violated may never see a court, or if he does, he will be defaulted because he cannot be properly represented, and that is a problem.

I say to you delegates, do not use all of this space, these 18 lines, to establish a commission, 8 members who have the

right to investigate and other very fine language, and then put the sleeper in there, but the commission has no value; anybody can go to court and bypass the commission. I am asking you, what is the purpose of the commission? Are you establishing it for a purpose, are you establishing it for wordage? Are you establishing it so that the words can read that we did this, and then go back to your constituents and say, "Yes, we did.", or say, "Don't worry about it because you don't have to go before the commission anyway." I am asking that you adopt this amendment and at this time I will ask for the yeas and nays on a roll call vote.

PRESIDENT NISBET: The yeas and nays have been demanded. Is there a sufficient number up? Sufficient number up. The Chair recognizes Mr. Hoxie.

MR. HOXIE: Mr. President, it is my understanding that a motion was made to move the previous question which was delayed by request of Mr. Downs for 20 minutes. I think this area is a very important area and needs full discussion. The point I would like to make is: it is now 6:00 o'clock, our adjournment time. Do we have other amendments on the secretary's desk?

PRESIDENT NISBET: There are 2 more amendments on the desk to this section and 13 to the body of the bill.

MR. HOXIE: Mr. President, in view of the fact that certainly we want to hear a full discussion, we don't want to deny anyone those rights — we do have a few minutes left, I assume, for announcements by the secretary and whatnot — I would like to move at this time we adjourn.

PRESIDENT NISBET: The question is on adjournment.

MR. MARSHALL: Point of order. Mr. Garvin, if I am correct, was still speaking and he was interrupted.

PRESIDENT NISBET: No, he had finished.

MR. MARSHALL: I am sorry.

PRESIDENT NISBET: The question is on adjournment. Those in favor will say aye; those opposed, no. Just a minute. We have a few announcements.

SECRETARY CHASE: We have the following requests for leave: Mr. Stamm asks to be excused from the session of tomorrow and Tuesday's session to meet with the county board of supervisors; Mr. Dade requests leave from the Monday evening session; Mrs. Conklin asks leave from tomorrow morning's session; Mr. Shackleton from the sessions of Monday and Tuesday; and Messrs. Bentley, Ostrow, Sablich, Tweedie and Millard ask to be excused from tomorrow's session.

PRESIDENT NISBET: Without objection, they are excused.

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

[Whereupon, at 6:00 o'clock p.m., the convention adjourned until 9:00 o'clock a.m., Friday, April 6, 1962.]



PRESIDENT NISBET: Motions and resolutions.

SECRETARY CHASE: There are no resolutions on file.

[Mr. Bentley, having been previously granted leave from today's session, left the chamber.]

PRESIDENT NISBET: **Unfinished business.**

SECRETARY CHASE: Under the order of unfinished business, the president lays before the convention the report of the committee of the whole relative to **Committee Proposal 71**, on which is pending a substitute of Messrs. Van Dusen, et al, for section i, as reported by the committee of the whole, and immediately pending to this substitute is an amendment by Messrs. Garvin and Hood, which amendment reads as follows:

1. Amend the amendment, second paragraph, second sentence, at the end thereof, after "purposes.", by striking out the balance of the section.

PRESIDENT NISBET: The question is on the amendment of Mr. Garvin and Mr. Hood to the substitute. Last night when we adjourned we were discussing that amendment. Mr. Garvin, do you care to speak on the amendment?

MR. GARVIN: Mr. President and delegates, I don't know that I need to—at least, myself—go over this matter again that I went over yesterday, because I believe that I pointed out to you the fallaciousness of this last sentence in the amendment, which was to the effect that it destroys the commission, with the parent intent to destroy any effectiveness that the commission might have, and by these words, it leaves nothing, only words in the constitution, 18 lines here and using 2½ lines to destroy that which you did; creating 8 members of the commission and also giving them the authority to investigate. And, in addition to that, it is noted in line 13 that already, before this last line was put in, it is stated how they should proceed according to general laws governing administrative agencies. And Committee Proposal 95 of the judicial article definitely states how administrative agencies should operate. It is in here once, and now the last line takes it all out.

Like I stated, I believe most of you were here yesterday when this was offered, so at this time I won't go over the same thing again, only to say that if you want a civil rights commission, very good; but don't pass it with this sentence just for the purpose of saying that a civil rights commission has been enacted in the constitution and not meaning it at all. If you don't mean it, you don't mean it. But if you do mean it, you have got to take this last line out, because it gives everybody the right to bypass the commission, and 8 members will be sitting up there doing nothing. I might ask Mr. Hood if he wants to say anything. I would yield to him.

PRESIDENT NISBET: Mr. Hood, you pass? Have you finished, Mr. Garvin?

MR. GARVIN: Yes, I have finished.

PRESIDENT NISBET: The Chair recognizes Mr. Batchelor.

MR. BATCHELOR: Mr. President and fellow delegates, I wish to speak on the Garvin and Hood amendment, and speak about 2 points which I want the delegates to consider very seriously. First, we are writing a constitution for the great state of Michigan and not for a state below the Mason-Dixon line. The state of Michigan has announced on the record since 1850 its attitude towards minority groups, and especially the colored people, and we are proud of it. In writing a sound and flexible constitution, our goal should be to keep legislative language out of it. In America, we believe in a true, American way of justice; that is, you may be accused, but you are innocent until proven guilty. Also, you have the civil right of a trial by jury.

This amendment has a tendency to reverse the process. That is, you are accused by someone and are considered guilty and must prove your innocence. The abuse of this would remind us of the days of witchcraft during the colonial period of New England, and I am sure no one wants that. I believe in and practice civil rights for all citizens. Therefore, I am

against this because it is more legislative and leads to the direction of reversing the process of justice.

PRESIDENT NISBET: The question is on the Garvin-Hood amendment. Mr. Ford.

MR. FORD: Mr. President, members of the convention, you may recall that when we were in committee of the whole on this subject, 2 or 3 of us attempted, on the floor, to put together some language, and a little bit of that language is in the last 2½ sentences which Mr. Garvin's amendment seeks to strike. As the language now reads, and as the intention seems to be indicated by at least one of the sponsors, I would have to oppose it.

What is happening here, when we look at it in the first instance, is that we are creating an administrative body which we hope will have the general characteristics of an administrative body and that when the legislature defines its powers, the legislature is going to be directed to do certain things, but is not going to be restricted any more than necessary. It is possible to construe this language to be a restriction on the legislature never to ever give to this administrative body original jurisdiction over any matter involving civil rights in the first instance.

There isn't anyone, I am sure, including Mr. Garvin, who would advocate an administrative remedy to the exclusion of your rights in the court, but the whole principle of administrative law is that you have a specialized tribunal that deals with special subject matter and has people especially trained to deal with that subject matter, and because they are dealing only with a certain limited area, have day to day actual knowledge of the conditions that exist. For example, let's say that we are talking about public housing in Detroit. It is conceivable that it might be wise, and the legislature might find it wise to say that anybody who is complaining about discrimination in public housing would first go to the civil rights commission. I am not suggesting that this is how it will work, but this is possible. And then if he was dissatisfied, or if the persons whom he complained against were dissatisfied, they would have the same right as they have in front of any other administrative body, to appeal from the decision or finding of the administrative tribunal.

But think of the burden that you would place in a place like Detroit, for example, if everyone who wanted to could capriciously avoid the necessity of first exhausting what the legislature thought was a valid, and in most instances, complete and adequate remedy for your problem. Imagine, if you will, if, instead of going to a board of appeals when you had a problem involving zoning, you could simply go to the court and say, I don't think I would like to go to the board of appeals because those fellows are all aware of the zoning problems of my city, and they are likely not to give me what I want, but it is possible if I could get in front of a jury I could fool them. Now, this doesn't happen. There is a well established, very solid and very sound rule of administrative law that is adhered to by our courts, that where an administrative remedy is provided, that you must first avail yourself of that remedy before you turn to the court with your problem. It doesn't say that you are stuck with the remedy that you get before the administrative tribunal, and it doesn't say that we will refuse to interfere, but it says you must first give the administrative tribunal its opportunity to make the decision. Why does it say this? For the very simple reason that if you are involved with a question of zoning or a question of civil rights or a question of civil service, or any one of these things that we are talking about being handled by an administrative body, you are involved in a field where a group of experts familiar with not only the law but also the facts involved in the entire situation can do a better job in the first instance of investigating and making the original finding.

It is for these reasons that I support the Garvin amendment. I certainly support any language that someone can come up with that would guarantee that nothing we are doing here would diminish anyone's rights. But, I would oppose any language which, on its face, appears to prevent the legislature

from ever, at any time, giving this administrative body exclusive jurisdiction over any subject matter. When I am talking about exclusive, I don't mean to the exclusion of the court, I mean exclusive jurisdiction in the first instance at the initiatory stage, when you start the proceeding. There is no question in anybody's mind that you should be able to finish it ultimately, if you are dissatisfied, as far up as the United States supreme court, if that is necessary.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VANDUSEN: Mr. President, I would simply like to say, on behalf of the sponsors of the substitute amendment, that we would oppose the amendment offered by Mr. Garvin.

PRESIDENT NISBET: The Chair recognizes Mr. Garvin.

MR. GARVIN: Mr. President, to the secretary, is there an amendment before you by Judge Pugsley and Mr. Woolfenden?

SECRETARY CHASE: Mr. Pugsley and Mr. Woolfenden have filed an amendment:

1. Amend line 20, after "state" by changing the period to a colon and inserting "Provided however, That no proceeding is pending before the commission."

MR. GARVIN: Now, I understand from Judge Pugsley and Mr. Woolfenden that the purpose of that is to clarify it, because many of the delegates were of the opinion that this language would amount to exactly that, but to clarify this language, I believe that is the reason they are offering the amendment. However, it isn't in order, I don't suppose, so I would accept that as part of this if either one of them wanted to discuss the matter.

PRESIDENT NISBET: Mr. Chase, has that amendment been proposed?

SECRETARY CHASE: It has been filed, Mr. President.

PRESIDENT NISBET: Mr. Woolfenden.

MR. WOOLFENDEN: Mr. President, I am a little confused. I understood that that amendment—and I believe Judge Pugsley likewise did—was an amendment of Mr. Garvin's to be proposed by Mr. Garvin which we agreed to cosponsor. If I am mistaken—this amendment, as I understood it, was a clarifying amendment drafted by Mr. Garvin. Judge Pugsley and I, according to my understanding, agreed to cosponsor it with him, but if that is not correct, I would withdraw my support.

MR. GARVIN: I think the result is the same. I wish to change my amendment according to the language there. You can place my name thereon as a substitute—

SECRETARY CHASE: The secretary then understands, Mr. Garvin, that you are withdrawing the present amendment and you and Judge Pugsley and Mr. Woolfenden are offering this other one.

MR. GARVIN: I am offering that other one.

PRESIDENT NISBET: The amendment is offered by Mr. Garvin, is that correct, Judge Pugsley?

MR. PUGSLEY: I wish to make my position in this matter very clear. I did have a conference with Mr. Garvin in which I suggested to him that if there was any question about a loss of jurisdiction on the part of the commission because of this provision, perhaps something should be added. I do not wish to be placed in the position of being as enthusiastic as some may be with reference to the necessity of this provision. I do believe, however, that if we are to have a provision providing for such a commission, that it would be inconsistent to raise any question about its efficiency being destroyed because there may be a concurrent remedy in a court of law. My thinking has been that the parties interested should have the option of selecting either a remedy in court or before the commission, but once they had selected that remedy they should exhaust the same before going into the other remedy.

PRESIDENT NISBET: Mr. Chase, do you have a new amendment before us now?

SECRETARY CHASE: I am trying to ascertain the status of this. I think this is due to some confusion here at the desk, perhaps. Mr. Garvin, are you now offering the amendment?

MR. GARVIN: As a substitute, and I withdraw my other amendment and offer that.

SECRETARY CHASE: Mr. Garvin, without objection, withdraws his first amendment to strike out the last sentence, and in lieu thereof, offers the following amendment:

1. Amend the amendment, at the end thereof, after "state" by changing the period to a colon and inserting "Provided however, That no proceeding is pending before the commission."

MR. GARVIN: To repeat partially what Judge Pugsley said, the only purpose of this is so that if a person selects his remedy, he stays in that jurisdiction. If one selects the commission, good. However, if they select the court, good. But, it doesn't give the right of one party to select the court and one select the other. Whichever party starts his action, he must stay there and then not change once any petition or complaint is filed. If it is true that many of the delegates thought that that was exactly what this meant, well, it is merely for the purpose of clarification of the language, and I do repeat that in the event that is not placed in here, you are putting the commission in the position of a do nothing commission, which, as noted, has not been offered for any other commission created here.

We are talking about, perhaps, discrimination partially, and what we do have here is a discriminatory committee proposal. We have had proposals in reference to commissions, but the civil rights commission has to have something special about it. Maybe the thing of being special in this state or country is something that is not so, because being special isn't what a civil rights commission is created for. It is created to keep out the specialties. Now, why the committee decided to make this commission any different from any other commission, and why in line 13 they placed in there what a person might do according to the laws governing administrative agencies—and adding this, it is quite apparent that they didn't want a civil rights commission. So, this is to clarify, the addition of those words, any thought that anybody might have had that the last sentence, as it reads now, would have still allowed the commission to have some power. That is the purpose of this amendment and addition of words.

PRESIDENT NISBET: The Chair recognizes Mr. Lawrence.

MR. LAWRENCE: Mr. President, members of the convention, you may recall that when we were in committee of the whole, I spoke on this matter. I don't care to repeat what was said at that time, but I do oppose the present amendment or any amendment that would vitiate or in any way dilute the right of a party involved in a matter of civil rights to go before the courts. I will make it very brief.

If you do that, you are in an anomalous situation. You are passing a provision to protect civil rights and at the same time would be preventing one or both parties from going to the courts of this state to protect their own civil rights. I think we have a duty in this case. I don't agree with Mr. Garvin that this isn't a little different than the ordinary administrative matter. This is a provision to protect civil rights, and at the same time they are afraid to allow any party involved to protect his own civil rights by going to the courts. This amendment should be defeated.

PRESIDENT NISBET: The Chair recognizes Reverend Dade.

MR. DADE: Mr. President, believing in the spirit of the amendment Mr. Garvin has proposed, and—am I correct that Judge Pugsley and Mr. Woolfenden have withdrawn as cosponsors?

PRESIDENT NISBET: That is correct.

MR. DADE: If Mr. Garvin has no objection, I think this hails the situation and I would like to join in cosponsoring this amendment with him.

MR. WOOLFENDEN: Mr. President, when my turn comes I would like to be heard, but I would like to at least state that I have not withdrawn my cosponsorship. I am a sponsor.

PRESIDENT NISBET: The Chair understands the amendment is sponsored now by Mr. Garvin and Mr. Woolfenden and Father Dade. Mr. Woolfenden, you have the floor.

**MR. WOOLFENDEN:** Mr. President and fellow delegates, yesterday, following the conclusion of the session, Mr. Garvin and Judge Pugsley and I had a conference in which—I will speak for myself; if Judge Pugsley cares to be heard, he may speak—but it was my view that Mr. Garvin misunderstood the intent of the language of the proposal as submitted by the committee.

I will state frankly and unequivocally that I favor the committee language. However I felt it was unfortunate that Mr. Garvin misinterpreted, in my view, the intent of the committee language and we agreed to try to find language that would clarify that intent. In my judgment, this language now submitted, this amendment which I have cosponsored with Mr. Garvin does not change, substantively, the intent of the committee language, but merely clarifies it, and I believe, in the light of this clarification, which should disabuse anybody's mind of any possible misinterpretation of the intent, that I earnestly request that the delegates support this clarifying clause.

**PRESIDENT NISBET:** The Chair recognizes Mr. Faxon.

**MR. FAXON:** Mr. President, I would like to call for the yeas and nays on this, please.

**PRESIDENT NISBET:** The yeas and nays have been requested. Is the demand seconded? Sufficient number is up. The yeas and nays will be ordered. The Chair recognizes Mr. Everett.

**MR. EVERETT:** I support the intent of Mr. Garvin's amendment and believe I can support it, but I would like to, with the permission of the Chair, ask Mr. Garvin a question.

**PRESIDENT NISBET:** If Mr. Garvin cares to answer it.

**MR. EVERETT:** Mr. Garvin, it is not your intent, is it, by this language, to prohibit an appeal to the court after the commission has acted? That is not your intent?

**MR. GARVIN:** Oh, no, indeed, because you still have, in line 13, that you still have the rights that any other commission would have.

**MR. EVERETT:** I assumed that was not your intent but I thought that the record ought to be clear that this was not your intent. All you are suggesting, then, is that once the action is started you can't jump from one side of the fence to the other; you pick your court.

**MR. GARVIN:** That is all.

**MR. EVERETT:** Mr. President, in view of that explanation, I would support Mr. Garvin's and Mr. Woolfenden's amendment.

**PRESIDENT NISBET:** The Chair recognizes Mr. Downs.

**MR. DOWNS:** Mr. President and fellow delegates, I wish also to rise to support the Garvin, Woolfenden, Dade amendment. I believe that this does clarify the situation and, as I understand it, the individual would really have an election of remedies. He could go before the commission or he could use his legal remedy. I think this does answer the problems that have been raised, and I, therefore, urge support of the amendment.

**PRESIDENT NISBET:** The question is on the amendment offered by Mr. Garvin and Mr. Woolfenden. Mr. Pugsley.

**MR. PUGSLEY:** I don't want any misunderstanding about the clarity of my position in this matter. My thinking has been this: if there is any question about the efficiency of the commission provision and any question to be raised on the provision recognizing the jurisdiction of a court of law, all doubt should be removed. I think the issue purely boils down to one of, do you want a commission with these provisions or don't you want it. I think if the provision is to stand, it should contain this amendment.

**PRESIDENT NISBET:** The Chair recognizes Mr. Van Dusen.

**MR. VANDUSEN:** Mr. President, the sponsors of the substitute have attempted to confer and reach some sort of conclusion with respect to the amendment now offered by Mr. Garvin, and, frankly, we find ourselves much in the same position as we did yesterday when confronted with Mr. Norris' amendment.

The problem is one which is technical and difficult and we are unable to reach a conclusion which even a majority of our legal minds can agree upon as to exactly the effect of the Garvin amendment. But, personally, I am not at all unsympathetic to the approach, and I have great respect for Judge Pugsley's opinion on it, and for Mr. Woolfenden, and I further respect Mr. Brake's judgment, and he indicates that he sees no particular difficulty with it. On the other hand, Judge Dehnke and Mr. Hutchinson, other esteemed members of the bar, see problems in it which may or may not be there. Consequently, all I can say for the moment is, I personally intend to vote no, but without any feeling that I would not give careful consideration again to it upon second reading.

**PRESIDENT NISBET:** Dr. Hannah.

**MR. J. A. HANNAH:** Mr. President, fellow delegates, since my name is on the sponsorship of the original substitute, I want to be perfectly clear, since Mr. Van Dusen has indicated that he is going to vote no, that I am going to vote yes.

**PRESIDENT NISBET:** The Chair recognizes Mr. Lawrence.

**MR. LAWRENCE:** Now that this new amendment is on the board where we can see it, I merely want to point out to you that if you vote for this amendment, you are allowing one party, by starting the proceedings before a commission, to deny the civil rights of the other party to have his right in court.

**PRESIDENT NISBET:** Judge Pugsley, just as a matter of record, is your name on this amendment or is it not?

**MR. PUGSLEY:** It is not.

**PRESIDENT NISBET:** The question now is on the amendment offered by Messrs. Garvin, Woolfenden and Dade. The yeas and nays have been ordered. Judge Dehnke.

**MR. DEHNKE:** Mr. President, only because my name has been mentioned in the discussion, I feel it necessary to state that I am opposed to this amendment, not because I am unsympathetic with its purpose, but because I think it adds nothing that is needed. It creates no new rights. I think the amendment, as it stands, without the addition of these words, will protect the rights of both parties to go to court only in those instances in which there is some specific state of facts which justifies going to court, and I am sure the courts will not entertain any actions of this kind that properly belong before the commission.

**PRESIDENT NISBET:** The Chair recognizes Mr. Martin.

**MR. MARTIN:** Mr. President, I just want to support Mr. Van Dusen's comments, that this is a question which involves, I think, some further examination, and I don't think we can decide here on the floor as to what the precise effect of this amendment is, and for that reason I am going to vote no and recommend that others do the same, but with the intention, as far as I, personally, am concerned, of examining this rather carefully in between here and second reading.

**PRESIDENT NISBET:** The Chair recognizes Mr. Nord.

**MR. NORD:** Mr. President and fellow delegates, I wish to state that I support the amendment, but I would like to state further that I believe that this language—or language of some sort equivalent to it, such as, for example, instead of the language here, "except as otherwise provided by law," at the end of the existing sentence—possibly could take care of the problem. The point I make, however, is this: there is certainly a problem in the last sentence. This is a problem that just gradually dawns on you as you read it, and it seems to me that it is a problem that does have to have some attention, and I would like the convention to be on record as indicating that they do intend to solve the problem.

The reason for the problem is simply this: in the last sentence, we put into the constitution a restriction on the legislature—at least that is the way I interpret it—that it is not permitted to do something which otherwise it would be permitted to do. As I understand the last sentence which is in the substitute, its effect is that whereas at present the legislature could, if it wishes, give exclusive jurisdiction to the commission in certain areas, selected areas, whichever

areas they would select, such as, for example, employment, they could do that or they could withdraw it later, or they could give it in 2 or 3 fields, as they wish. But, I believe that under the language that we have the legislature cannot do that. It is impossible for them to make it exclusive in any area. Now, this causes a great concern in me, and, as I say, this is one that is not clear in other people's minds. I have discussed it with many other people.

Others are not as concerned, but I am, for this reason: I believe, for example, that the fair employment practices commission—I am not positive of the facts—but I believe that they have exclusive jurisdiction, at least to some extent, as provided by the legislature, and that they would lose that by this language of the last sentence.

If that is true, then it raises all kinds of questions in one's mind whether we actually take a step forward or a step backwards in this entire field of civil rights because of this last sentence. It appears to me, in any event, that this sentence certainly is chock full of problems which were not anticipated before, and we ought to be on record, when we adopt whatever we adopt in the convention, as putting some language in there to mitigate that factor. Even if we don't feel that the language we put in, or the language, let's say, as it is on the wall, is the perfect language, I believe that it is better than requiring people to vote for something where they have great concern that they can't tell, for sure, which direction the thing is going. Even though, perhaps, most people are satisfied it goes in one direction, others are afraid it goes in the other.

I believe that the idea that we should hold this for second reading could just as well be argued the other way around, that is, we could adopt the amendment on the wall and change that on second reading, and I believe that is the preferred course. I think we should adopt that language, because everyone seems to be in favor of it, nearly everyone, because they say they are sympathetic to its motives and objects. If that could be done, then it could be changed later, but the intention should be clear that we do intend to do something with the last sentence. As I say, I am fearful that the last sentence, with no change whatever, will cause a great deal of concern, and we can't tell whether we are going backwards or forwards.

PRESIDENT NISBET: The Chair recognizes Mr. Tubbs.

MR. TUBBS: Mr. President, I think I share the views of Dr. Nord. There is one other element, and I mentioned it the other day in committee of the whole. Let's take the F.E.P.C. act as an example. It is a criminal statute. The person who discriminates against a person in a public place, or the owner of a public place, may be proceeded against by the public authorities criminally. But the courts have held that the person discriminated against also has an action for damages. I think I agree that this ought to be left to the legislature. I think I also agree with Dr. Nord that we might adopt this amendment and then settle it on second reading.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen, my name also has been used in this discussion. I think this is a good example of what we get into when a far reaching amendment is thrown at us on the floor without a moment's preparation for it, no committee consideration. I think I shall go along with those who think we should wait until second reading before making the change.

PRESIDENT NISBET: The Chair recognizes Mr. Dean Doty.

MR. DEAN DOTY: Mr. President and fellow delegates, here again we have an example of the layman wondering what is going to happen next. The language offered by Dr. Norris and Dr. Nord originally, before something went haywire, was good constitutional language. I intend to oppose this amendment and every other amendment that is offered on this floor.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President, I would like to ask Mr. Garvin a question, if I may.

PRESIDENT NISBET: If Mr. Garvin cares to answer.

MR. HIGGS: Mr. President, Mr. Garvin, it appears in the second to the last sentence that the commission would have the power to issue appropriate orders, which I would understand to include injunctions or cease and desist orders. In a court of law, once a cease and desist order is entered, the court reserves jurisdiction over the matter. I would presume the commission would reserve jurisdiction over a matter in which it had issued a cease and desist order. Would it be your thinking that as long as the commission reserved the jurisdiction, that this matter would not be removable to a court of law by the defendant?

MR. GARVIN: I didn't get the line that you were reading.

MR. HIGGS: Well, the commission has the power to issue cease and desist orders or injunctions, does it not?

MR. GARVIN: After getting permission and the proper authority from the court, yes. This committee proposal does not go as far as the right to subpoena and so forth. Before they can get any records in or get any witnesses, they would still have to go to the court to get them, to show cause why they couldn't bring them in. They could send letters to them, but if they don't appear, they have no power to make them appear without a court order.

MR. HIGGS: This would not apply to a cease and desist order would it, or would it?

MR. GARVIN: No. On anything, it necessitates—if the persons do not wish to comply, it necessitates a court order to get them, and the only place you can get a court order is in court.

MR. HIGGS: Once a cease and desist order was entered, would the commission reserve jurisdiction over the matter?

MR. GARVIN: They have no power of enforcing, as far as I can see, by this Committee Proposal 71. They do not have the power to enforce, excepting going to court to enforce their orders.

MR. HIGGS: Thank you, Mr. Garvin. I am not at all certain; I think I understand Mr. Garvin but I am not sure that we understand each other. I am not certain whether the commission issued the order or whether the court issued it pursuant to a request of the commission, but once a cease and desist or an injunction was entered, whether by the commission with court authority or not, I am not certain whether the defendant would be in a position to remove the matter to the court for the original jurisdiction, if he otherwise had a right. I am frankly getting lost in this matter. I think that I don't understand it or the direction in which it is going and I now am inclined to vote no and see what we can work out between first and second reading.

PRESIDENT NISBET: Mr. Garvin.

MR. GARVIN: Mr. President, I wanted to point out to Mr. Higgs, please, on line 14, beginning there, where the commission has the right "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." I think that is very clear that the commission is just about limited to an investigation and, perhaps, recommendations. They still have to go to court to get these orders, to get witnesses, to get documents, or anything that they want. They have to show to the court that they need it in order to go ahead with their matter.

PRESIDENT NISBET: Mr. Bledsoe.

MR. BLEDSOE: Mr. President and fellow delegates, I think if we should begin our thinking—and I am addressing my remarks primarily to the legal areas that have been discussed here this morning and yesterday—we will have to go back to Committee Proposal 90, which is up now and was announced here this morning, for our second reading, and it reads as follows:

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 pro-

bate court and other courts of limited jurisdiction that the legislature may establish by a 2/3 vote of the members of each house.

Since this convention has already gone on record and this proposal is up for second reading, in my judgment the judicial power of this state, when this instrument and document is completed, is exclusively in the courts, and I think we all want it there, at least we voted for it. And anything else to the contrary, in my judgment, would be of no moment. Certainly, as long as it is here, there shouldn't be any question about where the rights of the individual are, or what tribunal has paramount jurisdiction to determine those rights.

The civil rights commission is purely an administrative tribunal, and it could not and cannot, in contemplation of what we have done here with reference to our courts, be anything else but an administrative tribunal, and not a court. I think if we keep that in our thinking with reference to this commission, I don't see how we could get too far afield in our differences as to really what we are dealing with.

**PRESIDENT NISBET:** The Chair recognizes Miss Donnelly.

**MISS DONNELLY:** I must strongly oppose this amendment, as well as any other language that goes in this direction, for the very reason that although Mr. Bledsoe has said the judicial power is exclusively vested in the courts of this state, we are merely building up in this constitution—not in the legislature but in this constitution—a judicial body. We are going to call it quasi judicial. We are going to call it administrative. But when you put these words in, "Provided however, That no proceeding is pending before the commission," you have ousted the courts of this state from their jurisdiction on this subject matter until it has been exhausted through this administrative tribunal.

The issue to me is, what right does a citizen have and what right should he have? We come to the conclusion that the courts may not act until this body has exhausted itself, with its remedies, and done all things it wishes to do, then the court may review it. I think we have gone a very wrong direction toward rights of people, and I mean all people. To determine that they must exhaust themselves and nothing can happen in a court of this state if a proceeding is pending before this commission is to say that the courts may not act.

I think the issue is squarely in front of us, do you want the courts to have jurisdiction in this matter or don't you? I must very strongly oppose this. The reason I put the original amendment in that passed in committee of the whole was to have an immediate and direct legal or equitable remedy in the courts of this state. If a citizen has a cause of action he should be able to exercise it. If he has a defense, he should be able to exercise it. It would not have to be exhausted this way. Therefore, I oppose this amendment or any other amendment, on second reading or any other way, that would tend to vitiate any person's right to go directly to the court.

**PRESIDENT NISBET:** The Chair recognizes Mr. Habermehl.

**MR. HABERMEHL:** Mr. President, fellow delegates, I think that Delegate Bledsoe has put his finger on exactly what we ought to be considering here. Some weeks ago, by unanimous action of this convention, we put into the place that we considered to be the most inviolate part of our constitution, into the bill of rights, a strong provision guaranteeing exactly what this entire amendment would hope to do. We then spent quite a number of days setting up a court system, one of whose major functions would be to guarantee just exactly that sort of constitutional right. Now, by this amendment—and I speak of the Garvin, et al, amendment, we would apparently try to take away from these courts one of their major functions.

I would like to point out to all the delegates who feel a personal interest in this matter that the advances that have been made in this field have been made as a result of court decisions, going back quite a long way, and particularly a number of them in the last few years. Would you then give up the protection that our court system would afford to this type

of constitutional right? Certainly each judge of any court in this state is sworn to uphold the constitutional provisions that we adopted several weeks back.

It seems to me that the Garvin amendment, in one way, would say that the courts would have no jurisdiction until this commission has finished its proceeding. In line 15, on the other hand, we state that this commission, in order to take any sort of effective action must go to the courts to get authorization. These 2 provisions would certainly be contradictory, for there is only one way to get before the court, and that is to bring an action to secure the authorization, and certainly the court would not act in that way alone, simply to grant the commission authority. It would retain jurisdiction over the matter. I ask each delegate here, let's place a little bit of trust in the courts of this state. Let's assume that they will uphold the constitution of this state, and will enforce constitutional provisions that we put in, particularly in the bill of rights.

**PRESIDENT NISBET:** The Chair recognizes Mr. Van Dusen.

**MR. VAN DUSEN:** Mr. President, I think we have rather fully explored the matter. I move the previous question.

**PRESIDENT NISBET:** The previous question has been demanded. Is that demand seconded? Sufficient number up. The question is now: shall the previous question be put? Those in favor will say aye; opposed, no.

The motion prevails. The yeas and nays have been ordered on the amendment of Mr. Garvin and Mr. Woolfenden and Mr. Dade. Those in favor of the amendment will vote aye. Those opposed to the amendment 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—42

Austin	Ford	McGowan, Miss
Balcer	Garvin	McLogan
Binkowski	Greene	Murphy
Buback	Hannah, J. A.	Nord
Cudlip	Hart, Miss	Pugsley
Cushman, Mrs.	Hatcher, Mrs.	Romney
Dade	Hodges	Snyder
Douglas	Hood	Stopczynski
Downs	Jones	Suzore
Durst	Lesinski	Walker
Elliott, Mrs. Daisy	Liberato	Wilkowski
Everett	Madar	Woolfenden
Faxon	Marshall	Young
Follo	McCauley	Youngblood

#### Nays—69

Allen	Hatch	Powell
Andrus, Miss	Higgs	Prettie
Anspach	Howes	Radka
Batchelor	Hoxie	Richards, J. B.
Beaman	Hubbs	Rood
Blandford	Hutchinson	Rush
Bonisteel	Iverson	Seyferth
Boothby	Judd, Mrs.	Shackleton
Brake	Karn	Shaffer
Brown, G. E.	King	Shanahan
Danhof	Kirk, S.	Sharpe
Dehnke	Koeze, Mrs.	Sleder
Donnelly, Miss	Kuhn	Spitler
Doty, Dean	Lawrence	Stafseth
Doty, Donald	Leibrand	Sterrett
Farnsworth	Leppien	Thomson
Figy	Martin	Tubbs
Finch	McAllister	Turner
Gadola	Nisbet	Upton
Goebel	Page	Van Dusen
Gover	Perras	Wanger
Habermehl	Plank	White
Haskill	Pollock	Yeager

**SECRETARY CHASE:** On the adoption of the amendment offered by Messrs. Garvin, Woolfenden and Dade, the yeas are 42; the nays are 69.

**PRESIDENT NISBET:** The amendment is not adopted. Mr. Bledsoe.



MR. BLEDSOE: Mr. President, I would like to make a statement on the record, if I may, as to my not voting. I would like to make a statement on the record. My reason for not voting is because of the lack of clarification as to the legal problem evolving around this amendment, and the exclusive jurisdiction of the courts of this commonwealth.

PRESIDENT NISBET: May the Chair make just 2 observations at this time. We are now operating in the convention and rule 24 applies, that a delegate may speak only once on an issue. That was not violated in this, although 30 different people did speak on this amendment.

The second thing the Chair would like to mention is this: the Chair appreciates the necessity of conferences on issues such as this that are very critical and crucial; there were many conferences being held in the room. A conference between 2 people is not too difficult, but when you get 3 or 4 or 5 talking, it does disturb the convention, and the Chair would hope that those conferences could be held in the hall or the anteroom so the convention could proceed and the delegates would be able to hear the speaker. The Chair really appreciates its value, but would call your attention to it.

The secretary will read the next amendment. Mr. Van Dusen.

MR. VANDUSEN: Mr. President, before the secretary reads the next amendment, may I first apologize to the president as one of the conferees, and, second, I would like to move the previous question on any further amendments and on any substitutes to section i.

PRESIDENT NISBET: The previous question has been asked on subsequent amendments.

MR. DOWNS: Parliamentary inquiry: is there any way to indicate I would like to support Delegate Van Dusen in his motion?

PRESIDENT NISBET: Is that demand seconded? Sufficient number up. The previous question has been ordered on future amendments.

MR. FAXON: Mr. President, a preferential motion: could we at least have 5 minutes for each of those amendments so that the person who sponsored it might explain it, at least? I would move a 5 minute debate for each of the amendments.

PRESIDENT NISBET: The motion of Mr. Faxon is that a debate of 5 minutes be allowed on each of the amendments. Those in favor will say aye. Opposed, no.

The motion does not prevail. The question now is: shall the previous question be ordered on the following amendments? Those in favor will say aye. Those opposed, no. Well, that wasn't very loud. The question is now: shall the previous question be put on future amendments and on the substitute? Mr. Wanger.

MR. WANGER: Mr. President, I move that we limit debate to 10 minutes on each of the, I believe, 2 pending amendments.

PRESIDENT NISBET: The question is on the motion of Mr. Wanger that 10 minutes' debate be allowed on the following amendments. Those in favor will say aye. Those opposed, no.

The motion does not prevail. The question now is: shall the previous question be put on the amendments?

MR. WANGER: Mr. President, I demand the yeas and nays.

PRESIDENT NISBET: Is that demand seconded? Not a sufficient number up. The question now is: shall the previous question be put on the following amendments? Those in favor will say aye. Those opposed, no.

The motion prevails. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Young offers the following amendment to the substitute for section i:

1. Amend the amendment, second paragraph, by striking out all of the first sentence and inserting "The commission shall have the power to promulgate rules and regulations, hold hearings, administer oaths, require the attendance of witnesses and 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."

PRESIDENT NISBET: The question is on the amendment of Mr. Young. Those in favor of the amendment will vote aye. Those opposed, no.

The amendment is not adopted. The next amendment.

SECRETARY CHASE: Mr. Wanger offers the following amendment:

1. Amend the amendment, first paragraph, at the end thereof, after "commission.", by inserting "No member of the commission shall be eligible for election to public office during the term for which he was appointed nor for one year thereafter."

PRESIDENT NISBET: The question is on the amendment. Mr. Wanger.

MR. WANGER: Mr. President, I ask for the yeas and nays on this amendment.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded. Not a sufficient number up. Mr. Madar.

MR. MADAR: I hope that you will at least give us time enough to look over this before you call for the yeas and nays or before you call for a vote. I don't mind having a gag rule imposed, but I would like to check it to see what it is.

PRESIDENT NISBET: The question is on the amendment by Mr. Wanger. The secretary will read the amendment.

SECRETARY CHASE: Mr. Wanger's amendment is:

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

PRESIDENT NISBET: The question is on the amendment by Mr. Wanger. Those in favor will say aye. Those opposed, no.

The amendment is not adopted. The next amendment.

SECRETARY CHASE: Mrs. Daisy Elliott, Mr. Young and Miss Hart offer the following amendment to the amendment:

1. Amend the substitute by striking out all of the language and inserting "There is hereby created a nonsalaried civil rights commission which shall consist of 8 persons, not more than 4 of whom shall be members of the same political party—"

MRS. DAISY ELLIOTT: Mr. President, I would like to withdraw that amendment.

PRESIDENT NISBET: Without objection, the amendment is withdrawn.

SECRETARY CHASE: That is all of the amendments on the desk to the proposed substitute, Mr. President.

PRESIDENT NISBET: The question is now on the substitute as proposed by Mr. Van Dusen and others.

MR. VANDUSEN: The yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Sufficient number up. The previous question has been ordered on this substitute, Mr. Cudlip.

MR. CUDLIP: Mr. President, is there no right to speak on it? I asked for the privilege of the floor. Others did. I didn't know whether it was carried over or not. If it is in order, I wish to speak.

PRESIDENT NISBET: Under the present order, Mr. Cudlip, it is not in order. Mr. Van Dusen, did you include the substitute in your request for the previous question?

MR. VANDUSEN: With fear and trembling, I am sorry, Mr. President, I must say I did.

PRESIDENT NISBET: The Chair thought you did. The previous question, then, has been ordered. The Chair might say in this connection that yesterday Mrs. Cushman, Mr. Cudlip and Mr. Austin had asked to speak on this subject. The only way it could be accomplished now would be by unanimous consent. Is there unanimous consent for Mrs. Cushman, Mr. Cudlip and Mr. Austin to speak on this question?

MR. YEAGER: I object.

PRESIDENT NISBET: There is objection. The previous question has been ordered.

MR. YEAGER: Could we have the amendment read, please?

MR. VAN DUSEN: Mr. President, I would move that we reconsider the action by which the previous question was ordered on the substitute.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen to reconsider the ordering of the previous question on the substitute. Those in favor will say aye. Those opposed, no.

The motion prevails.

A DELEGATE: Division.

PRESIDENT NISBET: Division has been asked. Is the demand seconded? Sufficient number up. Those in favor of reconsidering the vote on ordering the previous question on the substitute—Mr. Madar.

MR. MADAR: Mr. President, before voting, I would like to explain why I won't vote either way on this. I just don't believe in tying a gag rule onto certain groups and then letting it go for someone else. If we are going to invoke a gag rule, let's make it for everybody.

PRESIDENT NISBET: Those in favor of reconsideration of the ordering 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 total the vote.

SECRETARY CHASE: On the motion to reconsider the ordering of the previous question, the yeas are 52; the nays are 60.

PRESIDENT NISBET: The motion to reconsider does not prevail. The question now is on the substitute. Mr. Chase will read the substitute.

SECRETARY CHASE: Following is the substitute for section i offered by Messrs. Van Dusen, J. B. Richards, John Hannah, Goebel, King, Martin and Bentley:

[The substitute for section i was read by the secretary. For text, see above, page 2182.]

PRESIDENT NISBET: The question is on the substitute offered by Mr. Van Dusen and others.

MR. AUSTIN: Mr. President, is it permissible for me to explain my vote?

PRESIDENT NISBET: You may—

MR. AUSTIN: Thank you, Mr. President.

PRESIDENT NISBET: —after the vote is taken, Mr. Austin. Those in favor of the substitute offered by Mr. Van Dusen, et al, will vote aye. Those opposed will vote nay. Mr. Ford.

MR. FORD: Mr. President, I would like to state my intention to abstain from voting and exercise the privilege of explaining my abstention.

I don't intend to vote on the substitute for the reason that it has been offered as a complete substitute for an amendment that was adopted after many perfecting amendments that took several days of debate on this floor, and is now being offered to us in a complete package form, with no opportunity for debate. It is apparent from what has been said here that several people had sought the floor to talk on this. To my recollection, none of the proponents have indicated to me and to the other delegates, in what ways the proposed substitute is superior—

MR. HOXIE: Point of information, Mr. President. Are we in the process of voting? Has the vote been announced?

PRESIDENT NISBET: No.

MR. HOXIE: I object to these remarks at this time, until after the vote.

PRESIDENT NISBET: You may make your remarks, Mr. Ford, after the vote has been announced. Mr. Hoxie is correct.

MR. FORD: Mr. President, it is my understanding of the rule that a statement of the intention to abstain must be made in advance of the taking of the vote, not after the taking of the vote.

PRESIDENT NISBET: You are stating your intention to abstain.

MR. FORD: It is my intention to abstain, because I am trying to say that I am abstaining because I don't believe we have had adequate debate on this; we are being asked to vote on it without the opportunity of having a complete comparison made on what was already adopted by the committee of the whole. I don't feel it is fair to me, as a delegate, or to the people of the state, to ask us to vote under these circumstances. For that reason, I don't feel capable of voting yea or nay on this substitute.

PRESIDENT NISBET: Mr. Faxon.

MR. FAXON: Mr. President, I wish to announce that I, too, wish to abstain because I don't feel that the people had an opportunity to fully express themselves on this subject because of the limitations.

PRESIDENT NISBET: Mr. Walker.

MR. WALKER: Mr. President, I, too, wish to announce my intention to abstain because of the gag rule that has been imposed here. I do not feel that we have had an ample opportunity to delve into the workings of this thing and I could not intelligently express myself with a yes or no vote.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Mr. President, I feel exactly the same way about it, and I am abstaining.

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: Mr. President, I intend to abstain. My reason is that the whole section is legislative and not constitutional.

PRESIDENT NISBET: 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—101

Allen	Habermehl	Plank
Andrus, Miss	Hannah, J. A.	Pollock
Anspach	Hart, Miss	Powell
Austin	Haskill	Prettie
Balcer	Hatch	Pugsley
Batchelor	Hatcher, Mrs.	Radka
Beaman	Higgs	Richards, J. B.
Binkowski	Hodges	Romney
Blandford	Hood	Rood
Bonisteel	Howes	Rush
Boothby	Hoxie	Seyferth
Brake	Iverson	Shaffer
Buback	Judd, Mrs.	Shanahan
Cudlip	Karn	Sharpe
Cushman, Mrs.	Kelsey	Sleder
Dade	King	Snyder
Danhof	Kirk, S.	Spitler
Dehnke	Knirk, B.	Stafseth
Donnelly, Miss	Koeze, Mrs.	Staiger
Doty, Dean	Kuhn	Sterrett
Doty, Donald	Leibbrand	Stopezynski
Douglas	Leppien	Thomson
Downs	Mahinske	Tubbs
Durst	Marshall	Turner
Elliott, A. G.	Martin	Upton
Elliott, Mrs. Daisy	McAllister	Van Dusen
Erickson	McCauley	Wanger
Everett	McGowan, Miss	White
Farnsworth	McLogan	Wilkowski
Figy	Murphy	Wood
Finch	Nisbet	Woelfenden
Gadola	Nord	Young
Goebel	Page	Youngblood
Gover	Perras	

#### Nays—9

Brown, G. E.	Jones	Shackleton
Hubbs	Lesinski	Suzore
Hutchinson	Liberato	Yeager

SECRETARY CHASE: On the adoption of the substitute to section i, the yeas are 101; the nays are 9.

PRESIDENT NISBET: The substitute is adopted. The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President, fellow delegates, I am fully aware that it has been difficult to bring many of the delegates to the point where they are willing or have been willing to accept the concept of an effective, self executing civil rights commission; one that will be able to accomplish our high purposes. It has been my purpose in the debates to keep the delegates constantly aware of the necessity for making the commission both self executing and effective. I have not been quite as successful as I would like to have been. There are 1 or 2 clarifying amendments that have been put over to second reading, and I am very hopeful that the delegates, in the spirit in which they have arrived to this point, will consider seriously these clarifying amendments, particularly the Norris amendment and the Garvin-Woolfenden-Dade amendment, which was precipitated by the discussion of Mr. Garvin.

I voted yes for this substitute amendment, because I believe it is an improvement over what was submitted to us in the beginning. It does not go quite far enough, but I am very hopeful that when it comes up for second reading, we will be able to adopt these clarifying amendments, and to make this provision exactly what we would like it to be. I do believe that a splendid spirit of compromise has been shown by the delegates. I believe that the people, generally, will appreciate what has been done. Thank you, Mr. President. (applause)

*Following is further explanation of vote submitted by Mr. Austin:*

I am aware it has been difficult to bring many of the delegates to the point where they are willing to accept the concept of an effective, self executing civil rights commission, one that will be able to accomplish our high purposes.

It has been my purpose in the debates to keep the delegates constantly aware of the necessity for including a provision for an effective commission. I confess I have not been as successful as I would prefer. We have retreated from the position we had arrived at on Thursday, March 29, when the amendment proposed by myself and a few other delegates was adopted by the committee of the whole. I am especially concerned that we have not included the major fields of discrimination in which the commission is expected to direct its probative attention: employment, education, housing and public accommodations.

I have voted in the affirmative on this substitute in the same spirit of compromise in which it was derived. At the same time I wish to express the firm hope that we will give serious consideration before second reading to perfecting amendments which were introduced on the floor by Delegate Norris and by Delegates Dade and Woolfenden (precipitated by the comments of Delegate Garvin), both of which appear to be necessary to give the commission effective powers.

The provision adopted by the convention does not go far enough in accomplishing our purpose, but it is a halting step in the right direction. The people of Michigan will render the final judgment when considered along with all other provisions of the new constitution.

PRESIDENT NISBET: Mr. Bledsoe.

MR. BLEDSOE: I want the record to show that I have abstained from voting on this issue, because I do not believe that there is a consensus of the convention as to the other and proposed clarifying amendments that have been suggested on the second reading, and unless and until the delegates assembled have arrived at a consensus relating to the proposed clarifying amendments suggested for the second reading, I want the record to show that I stand unalterably in favor of the action that this convention took last week on the civil rights issue, at which time I thought that a consensus had been arrived at.

*Following is further explanation of abstention submitted by Mr. Bledsoe:*

On Thursday, March 29, 1962, Messrs. Austin, Barthwell, Binkowski, Nord, Norris, Young and Mrs. Daisy Elliott offered the following amendment:

1. Amend the section, after "Sec. i.", by striking out the balance of the section and inserting "There is hereby created a civil rights commission which shall consist of 5 persons, not more than 3 of whom shall be members of the same political party, who shall be appointed by the governor 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.

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."

The amendment was adopted on a division vote (yeas 74; nays 43) in the committee of the whole.

Over the weekend, despite the fact that the amendment had bipartisan support, for reasons better known to themselves, certain delegates performed a complete "turn-coat act," the result of which leaves great doubt as to whether or not an effective civil rights commission, as acted upon today in the nature of a substitute amendment, which likewise was passed, has completely nullified the intent and purposes of the action taken on March 29, 1962, as set forth in the Austin, et al, amendment which, I repeat, represented a fine consensus of bipartisan action with a vote of 74-43.

In the light of the foregoing action taken to date, it is my firm conviction that the substitute amendment, passed today, is against the best interests of the people of Michigan, and until and unless bipartisan consensus is achieved in conformity with the action taken on March 29, 1962, under the Austin, et al, amendment, on the second reading, I will be constrained to vote against the Van Dusen, et al, substitute amendment, which was passed today; at which time I neglected to vote because of its lack of clarity and effectiveness, as indicated by its proponent on the floor, which further sustains my conviction that its enactment as a part of the constitution having to do with a civil rights commission will not be in the best interests of the people of Michigan; its patent inability to carry out the purposes which it was the obvious intent to achieve, such as set forth in the Austin, et al, amendment.

PRESIDENT NISBET: The Chair calls the attention of the convention to rule 65. Mr. Austin had proceeded to explain his vote before the rule was called to the Chair's attention. Rule 65 is that any delegate is privileged to explain in writing his vote on a record roll call. The written explanation shall be included in the journal if presented to the secretary. Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I desire to make such a written explanation.

*Following is the explanation of vote submitted by Mr. Hutchinson:*

On Thursday, March 29, I voted in favor of the amendment first offered by Messrs. Norris and Nord and later by Mr. Boothby, which provision would have created a civil rights commission. I voted against the substitute just adopted because it is filled with legislative detail. Every one of these details serves to limit the power of the legislature in this expanding area of governmental concern, where legislative discretion should be broad.

By these details we impose rigidity where the requirements of the future demand flexibility. The convention should not do the work of the legislature for it.

**PRESIDENT NISBET:** Mr. Greene.

**MR. GREENE:** Mr. President, I desire to make such a written explanation.

*Following is the explanation of abstention submitted by Mr. Greene:*

I see here demonstrated a weakness very prevalent, I regret to say, in many delegates in this convention. The lack of intestinal fortitude to stand by the courage of their convictions is shown so vividly by this convention, which voted overwhelmingly in favor of the original civil rights commission proposal. I see here, not an attempt to have mind meet mind in a real effort on a total delegate level to adjust our differences. I see here but the effects of a coercive effort to have mind submit to mind on another level. And I commend the 34 with conviction opposing the original proposal standing steadfast and for their ability to persuade regardless of the method used, the less courageous to change their original position on the issue.

Here we see the success of a compromise on a moral situation, but made, in my opinion, on the definition quoted by Mr. King recently; the definition of compromise that says, "A committal to something objectionable; a prejudicial concession, a surrender as a compromise of character, right or principle."

I am at a loss to understand the unfounded fears that seem to consume especially those who, by incidence of place of abode, will probably never be threatened by or exposed to the overly blown up potential of contamination, or subjected to some arbitrary attitude that may prevail in a civil rights commission. Therefore I can only conclude that the fears are insincere, and the use of such fear producing psychosis intimates its use is but a medium of arm twisting to achieve some other insidious, selfishly cherished objective.

So by virtue of my repugnance to all that seems to be happening in a chipping away method of emasculation, I refuse to join those courageless individuals either who compromise or remain in steadfast opposition. Therefore, I abstained from voting with maledictions.

*Following is explanation of vote submitted by Mrs. Daisy Elliott:*

As one of the sponsors of the Austin, et al, amendment, I would like to explain my reasons for supporting the Van Dusen, et al, substitute. I am sure that my reasons stated here on the floor of this convention will help to substantiate my strong feelings on this issue.

Because the legislature has not accepted its responsibility in the area of civil rights, there can certainly be no denial of the fact that the Van Dusen substitute has taken a giant step forward in the area of civil rights.

In view of the bipartisan consideration of the efforts of Miss Hart and myself in the committee on executive branch to report this issue out of committee as a committee amendment for delegates' discussion on the floor and considering the bipartisan spirit that remained during the long discussions held here, including the added intents of Chairmen Martin and Bentley in their supporting statements on this issue, I feel that their efforts shown here and substantive matter in the Van Dusen, et al, substitute amendment merit my support and that of any member of my party.

*Following is explanation of vote submitted by Mr. Yeager:*

I ask the privilege of explaining my vote of no on the question of the establishment of a civil rights commission in the constitution. At the very outset let me say that, in my judgment, the establishment of such a commission is not properly a constitutional question but legislative. It

has been refused enactment by the legislature even though it has been introduced each year for the past 5 years. This constitutional commission is an attempt to bypass the legislature. The commission will have most extraordinary powers. It takes on the aspect of "thought police" such as contained in the Orwell book, 1984 (big brother is watching you). It will be possible to place an individual in criminal jeopardy by a telephone call by lodging a complaint of alleged discrimination if the legislative bill is any indication. Contrary to the usual presumption that any citizen is innocent until proven guilty, in a complaint before such a commission the burden of proof rests with the citizen.

The amendment to establish such a commission was introduced through committee action without any public hearing, without any publicity, at a meeting of the committee held after such meetings had been officially discontinued by the convention. I believe the establishment of this commission is not the way to attack the problem of discrimination. I earlier supported an amendment which took the position of finding methods through education and investigation. This commission approach uses force. I do not believe the solution to this problem is force. I believe that this problem cannot be solved by a legislative approach alone. The solution must ultimately come from within people through education, understanding and effort by minorities to work from within themselves. I believe this amendment to be motivated more by politics than by sincere desire to solve the problem.

For all of these reasons I must vote no on this provision.

*Following is explanation of vote submitted by Messrs. Young and Binkowski:*

We voted yes on the Van Dusen substitute civil rights commission, notwithstanding the fact that, in our opinion, it falls far short of what is needed. As cosponsors of the so called Austin amendment, the record will show the Van Dusen substitute is not what we wanted and is not what we have fought for on the floor and in the committee rooms of this convention. It is regretfully, however, as far as a reluctant majority, insistent on embroiling civil rights in the partisan horsetrading of political deals, have been willing to go.

As delegates to this convention, we feel a deep responsibility to fight, on each and every issue, for what, in our opinion, is the maximum that can be won in the best interests of our constituents and the people of Michigan.

Our affirmative vote on any specific issue can in no way be construed as an endorsement of a document which we are in the process of writing. In all candor, we must declare that if we had to make an overall judgment of this constitution at this point, we would without hesitation recommend an emphatic "vote no."

**PRESIDENT NISBET:** The question is now on concurring in amendment 11 recommended by the committee of the whole, section i, as now substituted by the amendment just adopted. Those in favor will say aye. Opposed, no.

The amendment, as substituted, is adopted. The secretary will read.

**SECRETARY CHASE:** Miss Hart, Mr. Marshall and Mr. Downs now offer the following amendment to the body of Committee Proposal 71:

1. Amend page 1, line 2, after "secretary of state" by inserting a comma and "state treasurer, auditor general, highway commissioner, superintendent of public instruction"; so that the language will read:

The governor, lieutenant governor, secretary of state, state treasurer, auditor general, highway commissioner, superintendent of public instruction, and attorney general shall be elected at the general biennial election in 1964 and in each alternate even numbered year beginning in 1966.

tion or by law would remain as they are. All new commissions which might be created by the legislature would provide that their commissioners would hold office for 4 year terms. I see nothing here that would prevent the governor from reappointing them to another 4 year term, if he so desires.

MR. MADAR: You don't mean, then, that he would not be able to reappoint.

MR. DURST: I do not believe the amendment has that intention whatsoever.

MR. MADAR: As long as we get it on the record, that is all I wanted to get. Then, to go on, I like this idea of people coming out and showing colors. I have been castigated on several occasions because I have thrown aspersions on certain people, one party; no one has liked it. I can understand that. However, when they are deserved, I don't believe that anyone should complain, and as long as they are true, they shouldn't complain. I have heard quite a few aspersions cast this morning, and on this particular question. I didn't hear anybody casting any aspersions on any delegate here, though, whose name was in the paper not too long ago about advice given while that gentleman held office. We all were very, very gentlemanly and kept still about it, but I couldn't any longer because I notice that they started throwing aspersions on people in office, and with that I'll just keep still from here on in on this question. (applause)

PRESIDENT NISBET: The Chair recognizes Mr. Walker.

MR. WALKER: Mr. President—

MR. MARTIN: Mr. President.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Preferential motion.

PRESIDENT NISBET: The Chair has recognized Mr. Walker, Mr. Martin, and under the ruling he is entitled to make his statement, and then the Chair will recognize you.

MR. WALKER: I am forced to agree with Mr. Brake that things surely must have been bad and real rough and corrupt in the old days, and I am most gratified to see that they have been cleaned up substantially, in fact entirely to the best of my knowledge in the last 14 years. This amendment therefore appears to me to be a matter of locking the doors after the horse has been stolen and considered unnecessary.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, I think we have heard all of the arguments on this and I can only confirm what Mr. Brake has said. I move the previous question.

PRESIDENT NISBET: Is there support? There is support.

MR. DOWNS: I have a preferential motion, Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I move that additional debate be limited to 30 minutes with 15 minutes each, for and against.

PRESIDENT NISBET: On the motion of Mr. Downs that debate on this be limited to 30 minutes, 15 for and 15 against, those in favor will say aye. Opposed, no. The Chair is in doubt. Those in favor of the motion will vote aye—

MR. DOWNS: Mr. President, I have another preferential motion. I move that the debate be limited to 10 minutes, with 5 minutes on each side.

PRESIDENT NISBET: Do you withdraw the first motion?

MR. DOWNS: Yes, I withdraw my first motion.

PRESIDENT NISBET: The question now is on the motion of Mr. Downs that debate be limited to 10 minutes, 5 for and 5 against. Those in favor will vote aye. Those opposed, no. The motion prevails. Mr. Gust.

MR. GUST: Mr. President, I have a preferential motion. I would like to move that the debate on Committee Proposal 71 be cut off at noon.

MR. DOWNS: Point of order, Mr. President. Did I get a ruling on my motion?

PRESIDENT NISBET: Just a moment. Mr. Gust, your motion is not in order at this time. At the conclusion of debate under Mr. Downs' motion, we will consider yours.

MR. GUST: Excuse me. I thought the results of Mr. Downs' motion had been announced.

PRESIDENT NISBET: The debate will continue on this for 10 minutes, until 11:23. Mr. Chase has a stop watch. Five minutes for proponents of it, 5 minutes against it. The Chair recognizes Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, I rise to oppose the amendment. I am also alarmed at this haste to cut off debate because there are some amendments here that are related to 71 that are new amendments.

This amendment before us would weaken the governor. We have heard a lot of talk about a strong governor in this convention. I think the talk about a strong governor has been only for the ears of the people and you have not carried out the intent in this convention. This would permit department heads and commission heads to thwart the will of the governor, to go in opposite directions. It certainly would not be in the interest of good government, and it would not strengthen the governor. And there is reason, also, on some of these commissions, that they should have terms, particularly on mental health, as an example, of longer than 4 years, and I oppose the amendment.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, I demand the yeas and nays on the amendment, and speak in opposition to it.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Sufficient number up. Mr. Downs.

MR. DOWNS: This amendment, as Mr. Marshall said, would weaken the governor. If we want a governor who is responsible for administration, he should at least have something to say about the chief executive officer of the department that is to do his administration. I, therefore, urge the defeat of the amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, the amendment that is offered here recognizes the fact that the governor has a considerable authority over the boards and commissions by virtue of the fact that he has an appointive power with respect to those boards and commissions. In view of the fact that his term is being extended so that he will have authority to appoint, in most cases, a majority of the members of these boards and commissions during the course of his term, it is felt that this gives the governor a direct influence with respect to those boards which is adequate, and that therefore the executive director need not be subject to approval by the governor.

Now, the second portion of this relates to the fact that it is not desirable to have these terms extended further. If they are extended further, it works in the opposite direction. It takes away from the governor some influence that he may have in the appointment of the boards and commissions. So this is a balancing amendment. The amendment as it stands, therefore, will not weaken the responsibility or the authority of the governor, particularly if terms are not extended beyond their present length in the case of existing boards and commissions, and not extended further beyond 4 years, in the case of those which are created in the future.

PRESIDENT NISBET: The question is on the amendment. The yeas and nays have been demanded and ordered. 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—74

Allen	Gadola	Plank
Andrus, Miss	Goebel	Powell
Anspach	Gover	Prettie
Balcer	Gust	Pugsley
Batchelor	Hanna, W. F.	Radka
Beaman	Haskill	Richards, J. B.
Blandford	Hatch	Romney
Bonisteel	Howes	Rood
Brake	Hoxie	Rush
Brown, G. E.	Hubbs	Seyferth
Conklin, Mrs.	Hutchinson	Shackleton
Cudlip	Iverson	Shaffer



Danhof	Judd, Mrs.	Shanahan
Dehnke	Karn	Sharpe
Dell	King	Sleder
Donnelly, Miss	Kirk, S.	Spitler
Doty, Dean	Knirk, B.	Stafseth
Doty, Donald	Koeze, Mrs.	Staiger
Durst	Kuhn	Thomson
Elliott, A. G.	Leibrand	Tubbs
Erickson	Martin	Turner
Everett	McAllister	Upton
Farnsworth	McLogan	Van Dusen
Figy	Nisbet	White
Finch	Page	

## Nays—41

Austin	Hatcher, Mrs.	Perras
Binkowski	Hodges	Pollock
Bledsoe	Hood	Snyder
Buback	Jones	Sterrett
Dade	Lawrence	Stopczynski
Douglas	Lesinski	Suzore
Downs	Liberato	Walker
Elliott, Mrs. Daisy	Madar	Wanger
Faxon	Mahinske	Wilkowski
Follo	Marshall	Wood
Ford	McCauley	Woelfenden
Garvin	McGowan, Miss	Young
Greene	Murphy	Youngblood
Hart, Miss	Nord	

SECRETARY CHASE: On the amendment offered by Messrs. Durst, Hatch, and Brake, the yeas are 74; the nays are 41.

PRESIDENT NISBET: The amendment is adopted. Mr. Gust.

MR. GUST: Mr. President, am I in order now to make a preferential motion, since the last preferential motion had only to do with the amendment then before the convention? I would like to move that debate on Committee Proposal 71 and all pending amendments thereto, terminate promptly at noon today. I would like to say in support of this motion that all of the amendments that are on the secretary's desk have been debated at length in committee of the whole. Everybody in this room knows exactly where they stand on them and it shouldn't take more than the remaining 40 minutes to vote on these pending amendments.

PRESIDENT NISBET: The question is on the motion of Mr. Gust. Mr. Marshall.

MR. MARSHALL: Mr. President, I don't know that all of the amendments that are on the desk of the secretary were offered and debated in committee of the whole. I don't know. Maybe Delegate Gust has some information that I don't have. I think it has been obvious that we have not today tried to delay this, nor have we made long winded talks on getting these recorded roll call votes. I have told many of the delegates in this convention I did not intend to do that, that I had had my say in committee of the whole, but I oppose this move to cut off debate not knowing—because I don't intend to spend time and I have not spent time this morning on those things that we debated in committee of the whole, but if there are amendments on the secretary's desk that were not offered in committee of the whole and that we did not have time to debate, then I think it is ill advised to move to cut off debate at this point at a given time, and I would like Delegate Gust to consider that.

MR. GUST: I have considered it, Mr. Marshall. I do disagree with you, in all sincerity. But I would like to raise a point of order, Mr. President. Is this preferential motion debatable?

PRESIDENT NISBET: The Chair thinks it is because you have set a definite time.

MR. MARSHALL: May I ask Delegate Gust a question?

PRESIDENT NISBET: Yes.

MR. MARSHALL: Is it your intention, Delegate Gust, to decide these decisions in the Republican caucus, bring them on the floor of this convention and deny the minority delegation here an opportunity to discuss them on the floor of this convention?

MR. GUST: Mr. Marshall, you are one of the most astute politicians in this room, and you know, very well, that that isn't the case and I have no such intention.

PRESIDENT NISBET: The Chair recognizes—pardon me, Mr. Marshall. Are you finished?

MR. MARSHALL: For the moment.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: I wonder if we could have this understanding: I have looked over all the amendments that I know of which are pending, copies of which have been sent to me from the secretary's desk, and as far as I can see, they are all amendments which I believe the committee would oppose. I would suggest, perhaps, that if Mr. Gust would withdraw his motion, we may be able to dispose of these—I believe we can—by 12:00 o'clock. If not, I would make such a motion at 12:00 o'clock, that at that point we simply vote on them without further debate.

PRESIDENT NISBET: Mr. Gust.

MR. GUST: With the understanding of my committee chairman that he will do that at noon, I will withdraw my motion.

PRESIDENT NISBET: The motion is withdrawn. The secretary will read the next amendment. Mr. Marshall.

MR. MARSHALL: Mr. President, I just want to make one point that I have made before, repeatedly, and I hope that I don't have to make it any more: if our distinguished and esteemed delegate from Grand Rapids, my fellow Rhodes scholar—you know, I happen to be a "Rhodes scholar," too, only it is spelled r-o-a-d-s, I drove a bus on all the roads in Michigan—but anyway, when he is referring to the committee, I would ask him to say, "The majority members of the committee." Thank you.

PRESIDENT NISBET: The secretary will read.

SECRETARY CHASE: Mr. Hodges offers the following amendment:

1. Amend page 1, line 10, after "Sec. a.", by striking out the first paragraph; and on page 3, line 16, by striking out "he shall be nominated and, by and with the advice and consent of the senate,"; and after section g, by striking out all of section h.

PRESIDENT NISBET: The Chair recognizes Mr. Hodges.

MR. HODGES: Mr. President, the intent and purpose of this, of course, is to give you an all appointed administrative board with the sole responsibility to the governor to select his administrative board and to replace them at his pleasure.

MR. MARTIN: Point of order, Mr. President.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: The amendment with respect to section h, I think, is out of order. We have already voted on that, both in committee of the whole and subsequently. I believe that is out of order.

PRESIDENT NISBET: Your point of order is well taken on section h. Mr. Hodges may continue on the part of his amendment which reads as follows:

1. Amend page 1, line 10, after "Sec. a.", by striking out the first paragraph; and on page 3, line 16, by striking out "he shall be nominated and, by and with the advice and consent of the senate,".

MR. MARSHALL: May I make a parliamentary inquiry?

PRESIDENT NISBET: You may, Mr. Marshall.

MR. MARSHALL: Delegate Martin stated that he had a copy of all the amendments to Committee Proposal 71. Do you think it would be asking too much if the distinguished and esteemed second vice chairman of the committee could have a copy also?

MR. MARTIN: Mr. President, I will share my copies with Mr. Marshall. They are available.

PRESIDENT NISBET: Thank you. Mr. Hodges, you may proceed.

MR. HODGES: I would like, as a point of clarification, Mr. President—I offer this not as a series of amendments, but as an overall proposition and it would seem that, in light of the other parts of the amendment, that it would be, in my estimation, in order.

*Following is explanation of vote submitted by Mr. Hodges:*

I take this opportunity to explain my submission and support of my amendment to have the state administrative board appointed by the governor without advice and consent of the state senate.

It has long been, and still remains my position, that our present system of electing our state administrative board in a statewide election is vastly superior to their appointment by the governor. In my opinion, the election of these officials brings them closer to the citizens whom they serve.

It has also been my observation from years of political participation that the governor has a strong voice in who is to be selected at party conventions to run with him on the statewide ticket.

The history of the present elective system has proven with few exceptions to be beneficial and satisfactory to the people of the state.

However, when given the choice between an all appointive ad board without advice and consent of the state senate, and the abortive method of allowing for 5 separate ways of selecting 8 administrative board officials, I find that reason, clarity, and consistency dictate the former.

I would be derelict in my duty in not opposing this part of the Republican caucus "package deal" which no delegate publicly advocated before this convention convened and which no delegate has yet admitted is the best way to select state administrative officials.

I offered this amendment when it was patently clear that there was no longer any opportunity to save the people's franchise in the election of the members of the state ad board.

It is for this reason and no other, that I offered this amendment in good faith and in all sincerity.

*Following is explanation of vote submitted by Mr. Romney:*

This is the explanation of my no vote on the Hodges amendment to the executive article during this morning's session.

I voted against the amendment for the reasons stated by Delegate McLogan. The amendment, in my opinion, represented the use of political subterfuge.

PRESIDENT NISBET: Are there other amendments? Mr. Wanger.

MR. WANGER: Mr. President, I believe that I have an amendment on the secretary's desk. If the copy which I gave is not clear, I have additional copies.

PRESIDENT NISBET: Will you bring the amendment up, please, Mr. Wanger?

SECRETARY CHASE: Mr. Wanger offers the following amendment to the body of the proposal:

1. Amend section i, at the end of the first paragraph, by inserting "The members of the commission shall not be eligible for election to public office during the term for which they were appointed nor for one year thereafter."

PRESIDENT NISBET: The Chair recognizes Mr. Wanger.

MR. MARTIN: Point of order, Mr. President. I believe this question was taken care of when we voted on section i this morning, wasn't it? Specifically, didn't Mr. Van Dusen's amendment specifically eliminate that from the Austin amendment?

PRESIDENT NISBET: Mr. Wanger.

MR. WANGER: Speaking to the point, I can assure the delegate that the wording of this amendment is different from the wording of the amendment previously acted upon.

MR. PERRAS: Mr. President, I move the previous question.

MR. WANGER: Mr. President, I have the floor, and I don't believe anyone can make a motion unless they have the floor.

MR. KUHN: Parliamentary inquiry, Mr. President.

PRESIDENT NISBET: You may state it.

MR. KUHN: My recollection, Mr. President, is that Mr. Van Dusen, some time ago, moved the previous question to

section i and all amendments thereto. Now, if that is correct, no subsequent amendments can even be offered at this time. They had to be offered before he made that motion, and if they were offered, there can be no talk at this time.

MR. WANGER: Mr. President, speaking to the additional point of order raised by Mr. Kuhn, the motion for the previous question, first of all, was made to the substitute, but if it did not, if it included section i, nevertheless, that was at a time when we were considering only that section. Now we have gone to a different stage of the proceedings and are considering, in addition thereto, amendments to the body of the whole proposal.

PRESIDENT NISBET: The Chair will rule that the operation of the previous question has been exhausted by the adoption of the substitute for section i. The Wanger amendment is to the body of the proposal and is therefore in order. Mr. Wanger, you may present your amendment.

MR. WANGER: Thank you, Mr. President.

MR. MARTIN: Mr. President, it seems to me that this is exactly the same amendment which Mr. Wanger has offered once before. It was put in and then it was taken out and he is now offering it again.

MR. WANGER: Point of order, Mr. President.

MR. MARTIN: I raise a point of order on that.

PRESIDENT NISBET: The ruling is that the amendment is enough different in form to be considered. Mr. Wanger, you may proceed.

MR. WANGER: Thank you. Mr. President and members of the convention, I will pause briefly so that we can take care of some typing up at the podium.

PRESIDENT NISBET: You may proceed.

MR. WANGER: I wish to present briefly the reasons for this amendment. As you know, this amendment is somewhat similar to the amendment which was adopted last Thursday to section i. This convention, then in committee of the whole, adopted that by a vote of 61 to 55, and it passed. However, when the substitute was presented by Mr. Van Dusen, et al, today, that sentence was omitted. During debate, no reason whatsoever was given for the omission of that sentence, although every other change was given some consideration. It is a substantive change in the provision, the section i, Mr. Van Dusen's statement to the contrary notwithstanding.

I believe it is important that this sentence be included in section i. You will notice it is different from the original amendment which was presented in committee of the whole, providing that members of the commission shall not be eligible for election to public office, whereas the previous amendment included appointment to public office as well, and also that the term for which they were appointed is now 1 year instead of 2 years.

We must face the facts, ladies and gentlemen of the convention, that we are dealing with an area, that of civil rights and the civil rights commission, which, in addition to being a great problem of social justice, is also an area of great political sensitivity; probably the most sensitive issue politically in modern times, in our state and in our nation. Therefore, I think we must realize that the political facts of life are that the temptation is, and indeed has been, very great to use this issue for political or partisan ends, or even occasionally, regardless of the ends of justice in a given case.

If we go to the part of our constitution providing for the courts, we find that in article VII, section 9, that circuit judges shall be ineligible to any other than a judicial office during the term for which they are elected, and for one year thereafter. That provision was thought wise by the founding fathers of 1908 for circuit judges. It was taken almost verbatim from the Constitution of 1850 of this state, and was discussed on the floor of the convention and inserted. When we acted on Committee Proposal 96, we included substantially the same provision, but we, as a convention, and as a committee, enlarged it to include all judges or justices of courts of record. Now, I submit to you that in this area the commission, a constitutional commission which we are creating, will not only be the judge of these issues and matters which come before it,

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 consecutive 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 pro-

tection 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.



[The amendment was again read by the secretary. For text, see above, page 2476.]

MR. MAHINSKE: I would like to direct a question to Mr. Everett, through the Chair —

CHAIRMAN YEAGER: Mr. Everett.

MR. MAHINSKE: —if he is listening. Under your amendment, this — at least, on the face of it — would not cover appointed officials as we have proposed them in the new constitution; this would not include the appointed members of the ad board. Is that correct?

MR. EVERETT: That is correct. It would not eliminate any appointed official of any governmental unit.

MR. MAHINSKE: Do you see much of a difference between an appointed ad board member and, say, possibly an elected ad board member?

MR. EVERETT: Well, I just have a feeling that a member of the ad board would not run whether he was appointed or elected, but this certainly would permit him to do it.

MR. MAHINSKE: Now, under your provision, you also do not call for a resignation of this person from the office that he is holding if he becomes elected to the convention. Would you propose that they would hold both offices or should resign one?

MR. EVERETT: Well, it seems to me the clear meaning is that he could not take office as a delegate if he held office as an elected official. If he preferred to resign and take office as a delegate, he would have that right.

CHAIRMAN YEAGER: Is the incorrect amendment posted on the wall?

MR. MAHINSKE: The incorrect one is on the wall. This is why I am having a little difficulty here.

MR. EVERETT: Well, I am not so sure, Mr. Chairman, that the amendment is incorrect that is up there.

CHAIRMAN YEAGER: Incorrect for the purposes of the question.

MR. EVERETT: Mr. Mahinske, the language of the substitute is that he shall not be eligible to serve; so the elected official could run. If he were elected as a delegate, he would have a choice of doing one of two things: resign as an elected official and serve, or not take his position as a delegate.

MR. MAHINSKE: Well, fine. This is what I wanted to know: that it does not cover an appointed official.

MR. EVERETT: It does not cover an appointed official.

MR. MAHINSKE: Thank you.

CHAIRMAN YEAGER: The question is on the Everett substitute amendment. Mr. Faxon.

MR. FAXON: Mr. Chairman, a question of Mr. Everett: by "governmental subdivision" are you referring to counties, cities, villages and townships, or would this include school districts — and I am now referring to an elected school board member; would this exclude an elected school board member?

MR. EVERETT: I think it would, yes.

MR. FAXON: Mr. Chairman, Mr. Everett, do you think that it is wise to exclude school board members who serve really not in a regular manner of employment? They meet just, maybe, once or twice a month. Do you think that we might better spell out the "governmental subdivision" to refer to cities, villages, towns, counties and townships, or do you prefer that this include school districts and drainage districts and other such governmental subdivisions?

MR. EVERETT: Mr. Chairman and Mr. Faxon, if, as a matter of principle, it is correct that elected officials should not serve — and I think it is correct — then it does not seem to me you should eliminate any of them. All elected officials ought to serve in the office to which they were elected, or as delegates, but not both. And if you are going to eliminate school districts, then I think you could make equally as good a case for eliminating city commissioners who meet once a week or every other week. It just appears to me that elected officials should not serve in both capacities.

MR. FAXON: Well, Mr. Chairman, fellow delegates, I happen to have had the great opportunity of serving on a committee with the very distinguished gentleman from the upper peninsula, who I found to be a member of a school board, and I would certainly hate to see the services of a person of

the caliber of Mr. Leslie Richards denied to any future constitutional convention.

CHAIRMAN YEAGER: The Chair will recognize Mr. Dell on the substitute amendment. The committee will be in order, please.

MR. DELL: Mr. Chairman and members, I would like to ask Mr. Everett a question, please, if he would not mind answering. Mr. Everett, in considering this position here as delegate to a constitutional convention, are we looking at it as a permanent position?

CHAIRMAN YEAGER: Mr. Everett.

MR. EVERETT: Mr. Chairman and Mr. Dell, I did not come here looking at it in that light, but I am not so sure we should not. (laughter)

MR. DELL: I agree with you on that part, but the point I am trying to make is that everyone knows that I am a county official. Now then, this is only a temporary assignment. I was elected because the people thought that I had some past experience that could be used here. I agree that there are times that a question may come up where it is difficult for me to make a decision, and it may look as if I am making my decision based upon what effect it is going to have on my particular position, but I have tried to make my decisions on other matters. The thing is that I realize there are a lot of us who come here that have some experience that you would deny. Given the fact that this is not a permanent position, I do not think it would be fair to ask these people to resign their present positions.

CHAIRMAN YEAGER: The Chair will recognize Mr. Rush on the Everett substitute.

MR. RUSH: I have a question for Mr. Everett.

CHAIRMAN YEAGER: If Mr. Everett cares to answer.

MR. RUSH: Our supervisors, of course, are elected, our township supervisors; however, many members of the board of supervisors in the county are appointed by cities. Why do you make the distinction there?

MR. EVERETT: Mr. Chairman, Mr. Rush, I am not so sure it is a valid distinction, except that, of course, at least in most counties — I do not think this applies to Wayne — but in most counties appointed supervisors very frequently are also elected officers of a municipality. But I think you have a valid point and if you prefer to make it "officials" without regard to whether they are appointed or elected, I certainly would not quarrel with you.

CHAIRMAN YEAGER: The Chair will recognize Mr. Stevens.

MR. STEVENS: Mr. Chairman and members of the committee, I think if this committee passes any of these amendments, it is making a grievous mistake. It seems to me to sacrifice the knowledge, experience and knowhow of many of the members of this convention would be a serious blow to the work of the convention, and I presume it would be the same in some future years.

CHAIRMAN YEAGER: The question is on the Everett substitute amendment. As many as are in favor will say aye. As many as are opposed will say no.

The amendment is not adopted. The question now is upon the Cushman-Judd-Andrus —

There is another substitute amendment.

SECRETARY CHASE: It is not a substitute amendment, Mr. Chairman. It is an amendment to the amendment.

Mr. Marshall offers an amendment to the amendment:

1. Amend the amendment, after "officer" by striking out "or employee"; so the language will read, "No officer of the United States, of this state, or of any governmental subdivision," and so forth.

CHAIRMAN YEAGER: The proponent, Mr. Marshall, is recognized.

MR. MARSHALL: Mr. Chairman and members of the committee, some of the delegates on the floor tonight are taking a reverse position from that which they took the other day as it related to local township officers and municipal officers serving in the legislature.

Now, I happen to be one of those that took a reverse position, only my position was different from most of those tonight that are arguing that this should not be put into the

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.	Stafoeth
Donnelly, Miss	Koeze, Mrs.	Staiger
Doty, Dean	Krolkowski	Stamm

Cudlip	Knirk, B.	Sleder
Danhof	Koeze, Mrs.	Snyder
Dehnke	Krolkowski	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 CONSTITU-

TION 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 Novem-

ber, 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

\*This paragraph proposed to be moved to schedule and temporary provisions.

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

**PRESIDENT NISBET:** The yeas and nays have been requested. Is the demand supported? Sufficient number up. Those in favor of the Hubbs 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 — 39**

Beaman	Hubbs	Richards, J. B.
Blandford	Hutchinson	Rood
Boothby	Karn	Seyferth
Bradley	Knirk, B.	Shackleton
Butler, Mrs.	Koeze, Mrs.	Shanahan
Cudlip	Leppien	Staffeth
DeVries	Millard	Staiger
Doty, Dean	Mosier	Sterrett
Finch	Nisbet	Thomson
Follo	Perlich	Tubbs
Gover	Perras	Turner
Habermehl	Plank	Woolfenden
Haskill	Pollock	Youngblood

**Nays — 78**

Andrus, Miss	Goebel	Page
Anspach	Gust	Powell
Austin	Hannah, J. A.	Prettie
Baginski	Hart, Miss	Pugsley
Balcer	Hatch	Radka
Bentley	Hatcher, Mrs.	Rajkovich
Binkowski	Heideman	Richards, L. W.
Bledsoe	Hodges	Romney
Bonisteel	Hood	Rush
Brake	Howes	Sablich
Buback	Hoxie	Sharpe
Cushman, Mrs.	Iverson	Sleder
Danhof	Jones	Snyder
Dehnke	Judd, Mrs.	Spitler
Dell	Kelsey	Stamm
Douglas	Kirk, S.	Stevens
Downs	Kuhn	Suzore
Durst	Lawrence	Tweedie
Elliott, A. G.	Lesinski	Upton
Erickson	Mahinske	Van Dusen
Everett	Marshall	Wanger
Farnsworth	Martin	White
Faxon	McAllister	Wilkowski
Figy	McLogan	Wood
Ford	Murphy	Yeager
Gadola	Ostrow	Young

**SECRETARY CHASE:** On the adoption of the amendment offered by Mr. Hubbs, the yeas are 39; the nays are 78.

**PRESIDENT NISBET:** The amendment is not adopted. Mr. Van Dusen.

**MR. VAN DUSEN:** Mr. President, I have a suggestion which I believe may expedite our consideration of Committee Proposal 71. As I believe all of the delegates are aware, this proposal deals mainly with the organization of the executive branch, but also it includes as a final section, section i, a provision relating to the creation of a civil rights commission. Now, recalling the parliamentary problems which we incurred last night over the question of separating matters which some delegates felt were dissimilar, I think that it might be well for us to consider at this point the way we can avoid a duplication of the loss of time which we incurred last night. Therefore, I have discussed with Messrs. Downs, Marshall, Miss Hart, Mr. Iverson, Mr. Brake, Mr. Martin, Mr. Bentley, Mr. Burton Richards, and others, the desirability of a separate vote on the civil rights issue. For that reason, Mr. President, I would move at this time that the rules be suspended and that we vote separately on section i of Committee Proposal 71 and on the balance of Committee Proposal 71.

**MR. MARSHALL:** Mr. President.

**PRESIDENT NISBET:** Mr. Van Dusen, would you come up here a minute. Mr. Marshall.

**MR. MARSHALL:** Mr. President, I'd like to rise to support the motion of Delegate Van Dusen and at the same time point out to the delegates in the convention that it is not my intent to offer any amendments to the committee proposal. I feel that

all the amendments that I could have offered were offered in committee of the whole. We had the recorded roll call votes on them. Everything that could have been said was said in committee of the whole. And anything that I would say now, or any amendments that I would offer to this proposal would merely be a repetition of what I submitted and spoke on on first reading. So, realizing and recognizing the pressure that is on the delegates for time, and the terrific schedule that we are keeping, it is not my intent to offer any amendments to the committee proposal. However, I do feel that there were some mistakes made on the first reading. I think there are mistakes in this proposal and if any amendments are offered to better this proposal, or to correct some of the mistakes that were made on first reading, then I would be happy to support them. But I myself do not intend to offer any. This information is just for the benefit of the delegates.

**PRESIDENT NISBET:** Mr. Van Dusen.

**MR. VAN DUSEN:** Mr. President, Mr. Chase has suggested the desirability of incorporating in my motion the fact that hereafter section i of Committee Proposal 71 would be considered a separate proposal, to be known as Committee Proposal 71A. For that purpose I move the suspension of the rules at this time.

**PRESIDENT NISBET:** The question is on the motion of Mr. Van Dusen at this time. Those in favor will say aye. Opposed, no.

The motion prevails. The secretary will read the next—

**MR. FORD:** Mr. President.

**PRESIDENT NISBET:** The secretary informs me that the vote shall be by division. Those who are in favor of Mr. Van Dusen's motion will vote aye. Those opposed—

**MR. FORD:** Mr. President.

**PRESIDENT NISBET:** Just a minute, Mr. Ford. You'll be recognized.

**MR. FORD:** I'd like to ask a question before we vote, if I may.

**PRESIDENT NISBET:** You're going to get a chance. I want to state the question first so the delegates will understand it. The question is on the motion of Mr. Van Dusen. Those in favor of that motion will vote aye. Those opposed will vote nay. The Chair recognizes Mr. Ford.

**MR. FORD:** I would like to ask, through the Chair, of Mr. Van Dusen if he would have any objection while he is suspending the rules to permitting us to vote on all of these sections in a seriatim manner inasmuch as we are now dealing with 4 different ways of picking the members of the administrative board.

**PRESIDENT NISBET:** Mr. Van Dusen.

**MR. VAN DUSEN:** Mr. President, Mr. Ford, I would object strenuously to that. The reason for my motion is because of the dissimilarity in character of section i from the balance of the proposal. The discussions which I have had with Mr. Downs, Miss Hart, Mr. Marshall, Mr. Iverson, Mr. Brake, Mr. Martin, Mr. Bentley, Mr. Burton Richards, and others, have contemplated only the separation which is embodied in my motion. I would object to any other separation.

**PRESIDENT NISBET:** Mr. Marshall.

**MR. MARSHALL:** Mr. President, I hate to take exception with my distinguished township attorney. I would have liked to had it divided section by section, just as Delegate Ford stated it. I was fearful of that and did not feel it could be done. Therefore, I support Delegate Van Dusen in separating just the civil rights commission section. This is what we asked for and Delegate Van Dusen agreed he would make this motion. And I state that information for the benefit of the delegates.

**PRESIDENT NISBET:** Those in favor of the motion will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

**SECRETARY CHASE:** On the motion of Mr. Van Dusen to suspend the rules and make section i of Committee Proposal 71 a separate proposal to be known as Committee Proposal 71A, the yeas are 111; the nays are 9.

**PRESIDENT NISBET:** The motion prevails.

**MR. YEAGER:** Mr. President, parliamentary inquiry: where will 71A be taken up on the calendar?

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.
Beamman	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	Leibbrand	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	Prettle	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  
Finch  
Follo

Marshall  
McAllister  
Murphy

Yeager  
Young

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.

the wording of "race, religion, color or national origin." Other than that, the language is very parallel. I think it is a clearer explanation of it and a crisper wording and I like it for that reason.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, the committee has looked over this language. Not all the committee has looked over it, but it was sent to us by style and drafting originally and we conferred with style and drafting and they have indicated a willingness to go back to the original language. We think that the original language is more concise and more clear, and that it includes everything which is in the language that Mrs. Cushman has suggested. For that reason we prefer the original language and we hope you will vote against the amendment.

PRESIDENT NISBET: The question is on the amendment of Mrs. Cushman. Those in favor will say aye. Opposed, no.

The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Norris and Garvin offer the following amendment:

1. Amend page 1, line 18, [paragraph 2] after "issue" by inserting a comma and "and request court enforcement of,"; so the language will then read:

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, and request court enforcement of, appropriate orders.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: Mr. President, I respectfully ask support for this amendment. I think it has utility in the format which has been presented by the committee. There is a recitation here of a number of powers on the part of the commission but there appears to be lacking a recitation of the most important power, namely, to go to court to secure official enforcement of an appropriate order. The word "request" is used. It does not necessarily follow that for the mere asking, the order would be granted. There has to be a showing before the court that it is a valid order in terms of the jurisdiction and respect for rights of the parties involved. There is an anomaly here. On the one hand the commission is prevented, or at least it isn't articulated that it may go to court to support an order, but a respondent, according to the last sentence, may go to court and prevent the commission from proceeding. It seems to me that the juxtaposition of these 2 ideas can have the net effect of diluting, if not seriously impairing the very function which this convention wished to entrust to this commission.

You have a recitation and it does mean there could be investigation, the making of findings, the engaging of conciliation and mediation and then, if necessary, the commission does issue the appropriate order to the respondent. But if it is known in advance that it is not possible for the commission to go to court to enforce this order, then it seems to me a great deal is lost in the idea of creating this commission. The whole theory behind it, from the time that we first dealt with this matter on the floor was to make this a self executing provision, that is, so that it would stand on its own feet and be a going concern as established by this convention, with the minimum amount of addition of supplementary legislation from the legislature.

It seems to me this is a very important addition and entirely germane and in harmony with the committee proposal. I did discuss it with the committee chairman and other people. However, to date I do not find this language in. I do think that it is totally in keeping and in harmony with the intent of the convention and the intent of the committee and I respectfully urge that this wording be included, though I do want the record to show that, in my judgment, it does not necessarily mean that the omission of this power would forever preclude the commission from going to court even under the provisions of the commission here. I think that that ought to

be on the record, and I do hope that the committee chairman would make that clear, that it does not, by this omission, intend to exclude the authority to go to court and make the appropriate request. But it does seem to me, after giving the commission the power to promulgate rules, to administer oaths, to, by court authorization, require the attendance of witnesses, submission of records and to take testimony, that the consummation of the entire administrative process is to issue an order if necessary. Now, I think I ought to say, too, that by your passage the other day of Committee Proposal 95, where you state that every order or rule of the commission has to be supported by competent, material and substantial evidence, there is indeed a very adequate protection for the respondent here.

I therefore, for these reasons, Mr. President, hope that the committee would, on its own, recognize the need for this language and if that does not prove to be the case, I respectfully urge the wholehearted support of the convention for the amendment, and I respectfully request the yeas and nays on this matter.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VANDUSEN: Mr. President, I make the point of order that the precise amendment was offered on April 5, was voted on, the yeas and nays were taken, the amendment was defeated at that time. It is therefore not in order at this time.

PRESIDENT NISBET: Your point of order is well taken. The amendment is not in order.

MR. NORRIS: Mr. President.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: With regard to that matter, sir, I recall that there was colloquy between myself and Mr. Van Dusen on this proposition. I thought the general way in which it was left was that there would be consideration of this particular matter by the committee and that the matter would then come up on second reading. Therefore, this matter has been offered. I do respectfully disagree with the ruling of the Chair. I think there ought to be a final disposition of this particular matter by this convention in deliberative session, sir.

PRESIDENT NISBET: A point of order has been made, Mr. Norris. This amendment is out of order. The secretary will read the next amendment.

MR. MARTIN: Mr. President.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: May I say on this, because there was a discussion to the effect somewhat along the lines that Mr. Norris mentions as to possible further consideration, we gave some further consideration to the matter and our feeling was that it was not necessary to include this language because it was quite clear from the fact that when court authorization was required for the attendance of witnesses, the submitting of records, and so on, that it was also a part of the procedure that if an order were entered, it would have to be subject to court enforcement if it were to be enforced. And therefore, we felt that this language was unnecessary and need not be added.

PRESIDENT NISBET: The point of order is well taken. It is in the journal. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Norris, Garvin and Ford offer the following amendment:

1. Amend page 1, line 20, [paragraph 2] after "purposes.", by striking out the balance of the section.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: Mr. President, I rise to support the amendment. I think there may be an intent on the part of this language to protect the rights of a respondent, that is, a party against whom a complaint may be made, and to accord to this respondent the right to seek an injunction at any stage prior to the issuance of an order by such a commission.

Now, the whole theory behind a commission is that it has within it the expertise to deal with particular problems in order to remedy a certain condition, and we have developed, in connection with administrative tribunals and commissions, the doctrine of exhaustion of one's administrative remedies.

And it may be that this particular provision is inconsistent with that doctrine. It may be also that it is unnecessary. But I submit that in its present form, and coming at the end of this particular formulation, it has a distinct possibility of substantially impairing the very mission and purpose of a civil rights commission. There isn't, if you will, any statement here that the commission is vested with exclusive jurisdiction over these matters. If there were, it seems to me then there might be some ground for recognizing that some problems would exist with this last sentence. But it leaves that open. That is, this commission doesn't have exclusive jurisdiction, necessarily. It goes through with its processes, but it permits, by this language, a door being open to any respondent to come in and challenge the action of the commission.

I submit that this could be done even without this provision. It could be challenged on the basis of no jurisdiction or it could be challenged on the basis that due process was not being accorded to the parties. But it has here an inconsistent philosophy, namely, that you are saying to someone who is going to be part of the jurisdiction of this commission that you can go and bring this matter to court prior to your exhaustion of administrative remedies. This is inconsistent with any sound philosophy of administrative tribunal. It doesn't permit the exhaustion of all the investigation and the making of findings, the conciliation, mediation and education that we foresee with such a commission. And I think that it has the distinct possibility of not only harm but dissipation of the function of this commission. I submit, Mr. President, that the convention ought to support the amendment before us in order that it may carry out its will with regard to the establishment of a self executing civil rights commission.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, this sentence has been carefully considered and it is our view that it does not do any of the things which Mr. Norris seems to fear. It does provide an alternative remedy. If the plaintiff is involved he can pursue his action in court if he wants to, or he can pursue it through the commission. If the respondent is involved as a defendant, he does have the right under this, of course, to go into a court to prevent any action which involves lack of due process or which violated his rights in any way. We feel that he would have this in any event, but we feel that it does no harm to make it clear that he does have such a right. Other than that, we do not feel that it in any way vitiates the general provisions of this section. We therefore are opposed to the amendment.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Norris. Mr. Garvin.

MR. NORRIS: Mr. President, can we have the yeas and nays?

PRESIDENT NISBET: The yeas and nays have been requested. Is the demand seconded? Sufficient number up. Mr. Garvin.

MR. GARVIN: Mr. President, through the Chair, I would like to ask Mr. Martin a question, please.

PRESIDENT NISBET: If Mr. Martin cares to answer.

MR. GARVIN: Mr. Martin, would you please tell the delegation here why the civil rights commission is treated differently than other commissions, as in Committee Proposal 95?

MR. MARTIN: I don't know that there is any special reason for that, Mr. Garvin. This was one of the amendments offered to the proposal as we went along here in committee of the whole and was adopted by the convention. I don't think there is a special reason for any difference of treatment. But, as I said previously, we don't feel that this does serious harm or in any way vitiates the general purpose and purport of the section.

MR. GARVIN: You do recognize that Committee Proposal 95 does take care of all commissions in the state of Michigan, do you not?

MR. MARTIN: I don't have Committee Proposal 95 here in front of me.

MR. GARVIN: That is the committee proposal from the judiciary with reference to administrative tribunals and it excepted none. In other words, it included all commissions

at that time. There was one exception made the night before last, that's all.

If there is no reason, Mr. Martin—you are chairman of the committee—would you have any objection to the deletion of that sentence?

MR. MARTIN: I say, Mr. Garvin, we did not feel that it was harmful, and therefore, we felt that there was no necessity for removing it. The general provisions of Committee Proposal 95, of course, would seem to apply to this as well as to any other administrative tribunal. However, this is just off the cuff. I'm just looking at it here. I see no reason why 95 doesn't apply to this as well as to other administrative tribunals.

MR. GARVIN: Thank you, Mr. Martin. Delegates, this was up in the earlier part of April. I am not going over the same thing that I did before. But it is very obvious from the statement of the chairman that in his opinion, which I suppose is the committee's opinion, this is in here for no reason at all. I submit that if that is true, why put it in here at all? Why not let it go under the Committee Proposal 95? There is no need to give any special treatment to this commission that is not given to others because I do not believe it is a special commission. It is another commission, the civil rights commission. Now, the language that is to be stricken, "Nothing contained in this section shall be construed . . ." as you can see on the board—all it does is add something to a provision that we already have in Committee Proposal 95.

One of the delegates stated, I believe, on the floor the last time that one of the purposes of this was to water down the civil rights commission because that delegate didn't think that there ought to be any civil rights commission at all. I submit, if you don't think there ought to be a civil rights commission at all, don't go through the back door to do it. It's kind of—well, I won't say cowardly—but certainly delegates should face issues squarely and say what they mean. And each time that you are voting—every person who voted last time—after an explanation of what this sentence meant, that there was no civil rights commission actually, every person that did it and didn't state exactly why, and voted for it, indicated that they also were in the same frame of mind of the other delegates who said they didn't want any civil rights commission at all. However, I do believe that you do want a civil rights commission. And I submit that you won't have one under this last sentence that we seek to strike.

I also question whether you realize that persons are not so ignorant nowadays in this twentieth century, particularly in the '60s, that they cannot read this right away and determine that this convention did not adopt a civil rights section in the executive branch that was any good whatsoever, providing anyone wanted to evade the commission. Under this section, either party will not have the services of the commission in investigation and in the other things that they might do in order to facilitate carrying out the purposes of this committee proposal. In addition to that, we will have a situation of 8 persons that will be doing nothing at all for a long period of time; and further, I submit to you that the people that are generally pressed by a denial of civil rights are generally the people who have no funds whatsoever to employ counsel. Under this section, they must employ counsel if one of the parties, the party that the grievance is against, wants to go directly to court. This party will have no one to investigate the matter at all.

One of the most important things about this going directly to court without going through the commission—since FEPC has been established, it's a good example—I don't believe there's been but one case in court. You say, every time someone mentions something about civil rights, and I dare say many of you have the same opinion here on this, you say this is a matter of education, this is a matter of letting people see. Let's educate the people and go at it gradually. And by this very last line you are denying the education of people by the civil rights commission. So I can't understand it. I can't follow any logic like that, a person talking out of one side of his mouth and saying education is necessary, and then denying it in this last sentence. I say that the entire sentence, for

the benefit of this constitution and for the benefit of the public and the education of the public, should be stricken.

PRESIDENT NISBET: Miss Donnelly.

MISS DONNELLY: If my memory serves me, this is the third time I have defended this sentence or something similar thereto. Mr. Garvin naturally did not ask this question of me because he knew what my answer would be. The difference between this commission and all other commissions is this is the only constitutionally created one. He is well aware of that fact. As a member of the bar of many years practice, he, I am sure, is aware of the difference between a statutorily and a constitutionally created commission. Leaving aside whether it's the job of this constitution to create any kind of a commission, whether this is a job of the legislature or the job of the constitution, but assuming for the moment that it is the job of the constitution, the next query is: can the legislature derogate from the grant of the commission spelled out in the constitution? In my opinion, it cannot. It may enlarge, but it may not take away. To say that you can leave the rest of this to the legislature—having gone this far, you cannot in my opinion as a member of the bar—I defy anybody to prove me wrong on that point of law. Many people have side-stepped this point of law but nobody has hit that issue, in my opinion, yet. They have sidestepped it. This is an instance where we are setting something up in the constitution. This is not a legislative commission. To go back under 95, we have done, in my opinion, an erroneous thing. In 95 we put in an administrative agency thing, one administrative agency. We have spelled that out in the constitution. This, to me, is also improper and we should make up our minds sometime along here whether we are the legislature or whether we are the constitutional convention. Where we're going to put something in the constitution, you've got to be sure it's broad enough to protect all and it will not derogate downward. The legislature cannot subtract this, in my opinion.

Therefore, in order to preserve the civil rights of any citizen to go to the courts of this state for their direct and immediate remedy, there is only one place we can do it, and that's here. And I believe that all the citizens should be protected in this right more than almost any other right we've ever gotten and ever had in our whole life. I submit that the only place that any rights have ever been protected have been in the courts of this land, and when you start saying the courts of the land may not act, then I am wondering what direction you really want to go, and do you really believe in the democracy and freedom of people or do you want a complete police state? Therefore, I am highly opposed to this amendment and suggest that it is being attacked in a rather dubious method.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Do you have any further speakers, Mr. President?

PRESIDENT NISBET: Yes.

MR. VAN DUSEN: I would move that further debate on this amendment be limited to 5 minutes.

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

The motion prevails. Mr. Austin.

MR. AUSTIN: Mr. President and members of the convention, I will be very brief because Miss Donnelly and I are cosponsors on another amendment to another proposal and I have no desire to antagonize her at this point. (laughter) However, I would like to support this amendment to have this last sentence stricken from section 1 because, as has been explained by the chairman of the committee, this sentence does not necessarily serve an important purpose and I think that Mr. Norris has very eloquently described some of the problems that may arise because of its inclusion. Very briefly, I would suggest that we delete this sentence and I therefore support the amendment.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, I think everything has been said on this that needs to be said, but I don't want to leave Mr. Garvin's statement on the record that this creates a commission which is no commission. This is simply not true and

it's not fair or right of him to make such a statement to this convention, because this creates the strongest civil rights commission in constitutional language in the entire United States. And for him to stand up here and tell you that you are not doing anything of any consequence, is simply a failure to state the full story. This is a very, very important proposal. It is made in good faith, it is an attempt to do what we think ought to be done in this field and do it effectively with a self executing provision, and I don't want the record to end with a statement that this doesn't accomplish anything. It accomplishes a great deal and I'm sure Mr. Garvin's people will all realize that that is a fact.

PRESIDENT NISBET: Mr. Garvin.

MR. GARVIN: Mr. Martin, it just happens everyone here is some of my people.

But anyway—number one, Mr. Martin, I have reason to believe that you didn't quite understand me correctly. The reason that I believe that you didn't is because you admitted that the last sentence had no effect whatsoever. And as chairman of the committee, if you honestly believe that sentence has no effect whatsoever, I don't see how it got out of your committee.

To Miss Donnelly: you mention you believe that people didn't have the right to go to court, and I pointed out that in Committee Proposal 95, all of them had the right to go to court, everybody does on each type of situation. Don't be misled.

PRESIDENT NISBET: The question is on the amendment. The yeas and nays have been ordered. Those in favor of the amendment will vote aye. Those opposed will vote nay.

MR. FORD: Mr. President. I'm sorry, but I was seeking recognition over here.

PRESIDENT NISBET: I'm sorry. Mr. Ford.

MR. FORD: Mr. Martin has made the statement that as an attorney he has looked this over and he doesn't believe that it has any effect at all. Now, I can only suggest that either Mr. Martin did not look at it very closely or he is trying to pass very quickly over this. I am not going to get into the kind of argument that Mr. Garvin did on whether this vitiates the effect of the commission. But there is no question, and there shouldn't be in the mind of any lawyer in this convention that we are making it impossible for the legislature to provide a system of procedure that would require certain matters to be taken before the commission before they were taken into the court. And that's what the effect of Miss Donnelly's language is. I know that this is the effect and I believe that this is what she intends, because I worked with her trying to perfect this, and you may remember that we passed over this matter once before, trying to clean up this language.

Now, when we were cooperating with her, I thought we were trying to say that nothing in this section should be in derogation of the person's rights otherwise provided by the law. But what we are really saying here, and the effect of this last sentence is, when it says "Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable" relief, we are forestalling the legislature from saying that certain types of cases must be followed in a certain procedural pattern before you go to the court.

PRESIDENT NISBET: Time has expired, Mr. Ford. The question is on the amendment. 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.

*The roll was called and the delegates voted as follows:*

#### Yeas—37

Austin	Follo	McCauley
Balcer	Ford	Murphy
Barthwell	Garvin	Norris
Binkowski	Hannah, J. A.	Ostrow
Bledsoe	Hart, Miss	Perlich
Bradley	Hatcher, Mrs.	Sablich
Buback	Hodges	Snyder
Cushman, Mrs.	Hood	Suzore
Douglas	Jones	Walker
Downs	Krolkowski	Wilkowski

Durst	Lesinski	Young
Elliott, Mrs. Daisy	Marshall	Youngblood
Faxon		

## Nays—77

Allen	Hubbs	Richards, J. B.
Andrus, Miss	Hutchinson	Richards, L. W.
Anspach	Iverson	Romney
Batchelor	Judd, Mrs.	Rood
Beaman	Karn	Rush
Bentley	Kirk, S.	Seyferth
Bonisteel	Knirk, B.	Shackleton
Boothby	Koeze, Mrs.	Shaffer
Brake	Kuhn	Shanahan
Butler, Mrs.	Lawrence	Sharpe
Conklin, Mrs.	Leibbrand	Sleder
Cudlip	Leppien	Spitler
Danhof	Martin	Stafseth
Dehnke	McAllister	Stamm
Donnelly, Miss	McLogan	Stevens
Everett	Millard	Thomson
Farnsworth	Mosier	Tubbs
Figy	Nisbet	Turner
Finch	Page	Tweedie
Gadola	Perras	Upton
Goebel	Plank	Van Dusen
Gover	Pollock	Wanger
Haskill	Powell	White
Hatch	Prettie	Wood
Howes	Pugsley	Yeager
Hoxie	Rajkovich	

SECRETARY CHASE: On the amendment offered by Messrs. Norris, Garvin and Ford, the yeas are 37; the nays are 77.

PRESIDENT NISBET: The amendment is not adopted. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I am advised that there are 2 more amendments pending to this section and I would move to limit debate on each of those to 10 minutes.

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

The motion prevails. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Garvin, Hood, Ford and Mrs. Daisy Elliott offer the following amendment:

1. Amend page 1, line 21, [paragraph 2] after "shall" by striking out the balance of the section and inserting "prohibit the legislature from enacting law granting any party the right to a direct and immediate legal or equitable remedy in the courts of this state."; so the language will then read:

Nothing contained in this section shall prohibit the legislature from enacting law granting any party the right to a direct and immediate legal or equitable remedy in the courts of this state.

PRESIDENT NISBET: The Chair recognizes Mr. Garvin.

MR. GARVIN: This amendment leaves most of the sentence and the general purpose of this line. However, as Miss Donnelly stated, this was legislative, so this sentence has been placed therein. It does not prohibit the legislature from enacting law granting any party the right to a direct and immediate legal or equitable remedy in the courts of this state. It still leaves the permission, but the legislature can change, in effect, what that is now or do anything they want to in reference to that particular line—it is really that simple—by putting some power in the legislature rather than freezing all of this into the constitution. Now, that's the general purpose.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President, I'd like to ask Mr. Garvin a question.

PRESIDENT NISBET: If he cares to answer.

MR. HIGGS: Isn't it true, Mr. Garvin, that under the proposal as it is now written and under the existing law with regard—

MR. GARVIN: I can't hear you, Mr. Higgs.

MR. HIGGS: Isn't it true, Mr. Garvin, that under the law as it is now written with regard to the administrative pro-

cedures act and the general laws governing administrative agencies, that a party would not now have such a right?

MR. GARVIN: You are speaking of Committee Proposal 95.

MR. HIGGS: No, I'm not. I'm speaking of the general laws regarding administrative agencies, and the administrative procedures act. Isn't it true that the review there must be upon the whole record? It's confined to the record, is it not?

MR. GARVIN: Confined to the record, yes.

MR. HIGGS: In other words, under our law as it is now written, the legislature has not made any provision for such a remedy as you wish to prohibit.

MR. GARVIN: No. This isn't designed to prohibit. This is designed—if you read it, "Nothing contained in this section shall prohibit the legislature", and so forth. That's the way the secretary read it. "Nothing contained in this section shall prohibit the legislature from enacting law granting any party the right to a direct and immediate legal or equitable remedy in the courts of this state."

MR. HIGGS: Mr. Garvin, I believe that I read this incorrectly. I apologize.

PRESIDENT NISBET: The Chair recognizes Miss Donnelly.

MISS DONNELLY: I oppose this language because this is attempting to do indirectly, and improperly, in my opinion, that which is most important to preserve. That is, not that the legislature may enact this but that it shall never go the other way. We are spelling out, again, in the constitution a commission. It is most important, in the face of this, the degree to which we're spelling it out. I think if you're going to talk about it, you should spell it out. Then I think this sentence is going to negate the effect of the sentence we just defeated. It says that "the legislature shall . . ." There is nothing to prohibit them from enacting it, but if they don't get around to enacting it, it will not be done. The point is that they cannot change it under the committee proposal; they cannot touch this issue. You may go directly, immediately to court. You do not have to exhaust yourself through an administrative agency. Too many people are exhausted through administrative agencies.

For all the reasons that we have turned this down from one direction to another is another reason why we should turn this down again. It is very important and vital that the constitution, on its face, preserve civil rights to individuals to have their matter tried immediately and directly in court, not to wait for the legislature to get around to doing it. I therefore strongly oppose this amendment for many of the same grounds as the other, and specifically for this reason.

PRESIDENT NISBET: The Chair recognizes Mr. Martin.

MR. MARTIN: Mr. President, our objections to this amendment are the same as those to the other amendment. We think that the sentence preserves a right which does no harm to the balance of the proposal, and for that reason we oppose the amendment.

PRESIDENT NISBET: The question is on the amendment. Those in favor of the amendment will say aye. Those opposed, no.

The amendment is not adopted. The next amendment.

SECRETARY CHASE: Mr. Austin offers the following amendment:

1. Amend page 1, line 22, [paragraph 2] after "state" by changing the period to a comma and inserting "unless otherwise provided by law."; so the language will read:

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, unless otherwise provided by law.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President, ladies and gentlemen of the convention, I don't believe this amendment will make Miss Donnelly angry. Therefore, I think I can speak on it. It has been indicated that this sentence could cause trouble. If we assume for the moment that we don't know whether it will cause trouble, then let's not run any unnecessary risks. If we find it necessary to write it into the constitution, let us at least leave the door open for the legislature to make a



change if it should discover later that it does cause serious problems. If it should happen to obstruct the work of the commission, certainly something ought to be done about it. Adding this sentence does not in any way diminish whatever effort Miss Donnelly exerted, but it does provide for some relief, should it be found to be unworkable. I therefore strongly urge that this amendment be adopted.

PRESIDENT NISBET: The Chair recognizes Mr. Lawrence.

MR. LAWRENCE: Mr. President and members of the convention, the proposed amendment would, of course, take the heart right out of what was attempted in this provision. It would allow the legislature to do away with the rights of the people. They could by one act, a stroke of the pen, so to speak, take away everything that we have tried to preserve for the people. I urge you to vote against this amendment.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, the same objections apply. This makes it a matter of legislative discretion and it seems to us unwise in view of the fact that the balance of the provision is constitutional. For that reason we do oppose the amendment.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: Mr. President, may I address a question, through the Chair, to Mr. Lawrence? When you say that this vitiates what we attempt to do by this language, more succinctly, are you suggesting that what you attempt to accomplish by this language is to permit a respondent to go to court prior to the exhaustion of administrative remedies?

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: Mr. Norris, through the Chair, no, that isn't exactly the way it was. There was considerable debate when this was before the committee of the whole in which I participated. I thought I made it clear that the effort here was to preserve the legal and equitable rights that people had and not have them taken away by an autocratic, bureaucratic commission, and not to prevent people, regardless of which side they were on, from being able to use any legal or equitable remedies they have. And of course, this amendment would or could result in that happening.

MR. NORRIS: Mr. President, I respectfully disagree with Delegate Lawrence. I don't think it necessarily follows that the creation of a commission makes it autocratic or bureaucratic. It's a commission. And you are trying to create a commission which will have a remedial purpose, namely, to correct certain matters regarding discrimination. And I think that this particular question and answer—and I must say, counsel, the answer is evasive—that we still have before us this question. Would not Mr. Lawrence and Miss Donnelly be agreeable to an amendment which said what they say in that last amendment, and then add the words "after the exhaustion of administrative remedies?"

PRESIDENT NISBET: Miss Donnelly, would you care to answer?

MISS DONNELLY: I will certainly stipulate that you were not here the first time I argued this issue. Had you been here, you would know that I would not. The whole point is, I don't want a person to have to exhaust his administrative remedies. If they have a cause of action, I see no reason why they have to exhaust themselves through the administrative agencies. Ergo, I oppose that as well as I oppose this because this allows that to happen eventually. This last amendment is to weaken it and there is no question, in my opinion, that this last amendment, in effect, is almost worse than the first time. Therefore, I once again oppose it on the same grounds, particularly because I don't want persons to have to exhaust themselves.

The way it is set up now, there are 2 ways to go: directly and immediately to the courts of this state, or you may go through the administrative agencies. It's up to the individuals to elect which they wish to do. I think it is vital to allow people to have some rights left, and for this constitution to decide that everybody's rights have to go a certain way, I think, is, in effect, a denial of due process of their rights as we used to understand them.

PRESIDENT NISBET: Mr. Bradley.

MR. BRADLEY: Mr. President, fellow delegates, I've been sitting here listening to this debate, sure in my mind that this could not really be the intent of this language. It never occurred to me until the last few remarks that anybody here would seriously contend that an administrative law should be thrown aside in this brusque manner. If there is any principle of administrative law that I've ever learned, and I'm sure that anybody else who has ever dealt with administrative agencies has learned the same thing, it is that if one is permitted to take a case out of the hands of an administrative agency immediately after it assumes jurisdiction you might as well not have the administrative agency in the first place.

I most strongly urge the adoption of the language of the amendment on the wall. In fact, I've offered another one which will spell this proposition out in more definite and more concrete terms. This is not a case of exhausting the parties, as Delegate Donnelly suggests. As handy as that language may be, the exhaustion of administrative remedies is an entirely different concept. If an administrative body is set up in the first place to carry out a certain function and to imply a certain technique, then why do we not permit it to carry out this function? If upon the filing of a petition or a complaint with an administrative agency any party can immediately take the matter away from that agency and go directly to the courts, then we might as well not have it. I believe Mr. Garvin is absolutely right when he said the question now boils down to this: will we or will we not have a civil rights commission in this state?

PRESIDENT NISBET: The question is on the amendment offered by Mr. Austin. Mr. Austin.

MR. AUSTIN: Mr. President, I would like to demand the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. Those in favor of the Austin 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—40		
Austin	Follo	Murphy
Baginski	Ford	Norris
Balcer	Garvin	Ostrow
Barthwell	Hart, Miss	Perlich
Bentley	Hatcher, Mrs.	Romney
Binkowski	Hodges	Sablich
Bledsoe	Hood	Snyder
Bradley	Jones	Staiger
Buback	Krolkowski	Suzore
Cushman, Mrs.	Lesinski	Walker
Douglas	Marshall	Wilkowski
Downs	McCauley	Young
Elliott, Mrs. Daisy	McGowan, Miss	Youngblood
Faxon		
Nays—81		
Allen	Hannah, J. A.	Pugsley
Anspach	Haskill	Rajkovich
Batchelor	Hatch	Richards, J. B.
Beaman	Heideman	Richards, L. W.
Blandford	Howes	Rood
Bonisteel	Hoxie	Rush
Boothby	Hubbs	Seyferth
Brake	Hutchinson	Shackleton
Butler, Mrs.	Iverson	Shaffer
Conklin, Mrs.	Karn	Shanahan
Cudlip	Kirk, S.	Sharpe
Danhof	Koeze, Mrs.	Sleder
Dehnke	Kuhn	Spitler
Dell	Lawrence	Stafseth
Donnelly, Miss	Leibrand	Stamm
Doty, Dean	Leppien	Sterrett
Doty, Donald	Martin	Stevens
Durst	McAllister	Thomson
Elliott, A. G.	McLogan	Tubbs
Erickson	Millard	Turner
Everett	Mosier	Tweedie
Farnsworth	Nisbet	Van Dusen



Figy	Page	Wanger
Finch	Perras	White
Gadola	Plank	Wood
Goebel	Pollock	Woolfenden
Gover	Prettie	Yeager

SECRETARY CHASE: On the amendment offered by Mr. Austin, the yeas are 40; the nays, 81.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Bradley and Norris offer the following amendment:

1. Amend page 1, line 22, [paragraph 2] after "state" by inserting "after exhaustion of all administrative remedies that may be provided by law"; so that the language will read: 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 after exhaustion of all administrative remedies that may be provided by law.

PRESIDENT NISBET: The Chair recognizes Mr. Bradley.

MR. BRADLEY: Mr. President and fellow delegates, the amendment on the wall says in more explicit language the things that were attempted by the last amendment. I just delivered my speech on that subject and there is little more that I can say to this point. I simply offer this amendment to make it perfectly plain that the vote on this proposition means that those who favor it favor the establishment of the principles of administrative law and those who do not favor this amendment are willing to completely emasculate this area of law as applies to the civil rights commission.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: Mr. President, I earnestly support this amendment and urge that the convention do likewise. It is in keeping with the committee proposal. It is the whole theory of the self-executory concept of this commission that it take jurisdiction, proceed to investigate complaint and go through the procedures of making the finding, seeking to conciliate and moderate and enter an order. And this order would be supported by competent, material and substantial evidence. And then the party, if aggrieved, could then have an appeal after the administrative remedies have been exhausted. This is the theory of all administrative tribunals. This is the only way in which a remedial purpose can be accomplished when you are attempting here to provide by a commission for the assistance of people who may be victims of discrimination involved in this particular matter.

I am most aggrieved by the tenor of the discussion thus far with regard to the matter because I think there is a very pronounced difference of philosophy with regard to this last sentence as against all the rest of it. I am not prepared in my own mind to subscribe fully to the proposition that this last sentence entirely vitiates all that precedes it. I think, on the whole, there is a substantial step forward in much of this proposal, considering where this committee was when we first discussed it of having something that might be considered by the legislature, and then if they didn't act within 2 years the governor might do something. I think we've made some progress in this area. There has been a susceptibility to the deliberative process on this matter. But I do think, and I earnestly implore and entreat the delegates to subscribe to the notion that is contained in this amendment. Otherwise a very serious impairment of its functions is going to be written into the constitution and it's going to be most difficult to extricate or to do anything about it. At least here you state a principle which will guide the legislature in its supplementary legislation and guide the courts in interpretation and guide all parties with respect to the adjudication of their rights. I earnestly implore support of this amendment.

PRESIDENT NISBET: Mr. Hodges.

MR. NORRIS: Mr. President, may I respectfully ask for the yeas and nays on this?

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. Mr. Hodges.

MR. HODGES: Mr. President, I'd like to ask Miss Donnelly a question, if she cares to answer, through the Chair.

PRESIDENT NISBET: Miss Donnelly, do you care to answer?

MR. HODGES: Miss Donnelly, since you are the proponent of the language which this is attempting to amend, would you generalize your language to make it apply to all administrative agencies?

MISS DONNELLY: In the first instance, I cannot see that your question is on the issue. I am completely confused as to what validity it has with the issue in front of us, which is a constitutional agency which we are now setting up in the constitution for the first time we've ever had a commission such as this set up. In the second instance, would I, after exhausting all administrative remedies for all administrative agencies? As I say, this is: 1, not an issue so I don't think we should spend convention time on it; but 2, until I've studied every single administrative agency that you can possibly conceive of, that presently exists on the books and may be existing shortly, I couldn't give you an intelligent answer.

MR. HODGES: Miss Donnelly, why do we treat this differently? Would you do this for the civil service commission?

MR. A. G. ELLIOTT: Point of order, Mr. President.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. Hodges is not speaking to the amendment.

PRESIDENT NISBET: Mr. Hodges, will you confine yourself to the amendment?

MR. HODGES: Mr. President, I am confining myself to the amendment because this is the very substance of this issue. We are here setting up an administrative agency and for some reason we are trying to apply administrative rules which do not exist before any other administrative agency and which do not exist in administrative law. Now, there is only one of two reasons: either we want to change the character of administrative law in this state by putting this in as a general factor, or we want to just put up some window dressing and call it a civil rights commission and totally vitiate its powers. And I think we are entitled to know what the purpose of the proponents of this language is.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, it seems to me that it should be clear that this does not permit a defendant to take his cause elsewhere unless his rights are in some way being violated. He doesn't get out of dealing with the commission simply because he starts an action in a court. If he takes the action to a court, it is because his due process is being violated in some way, and if that is true, then he has a case. If it isn't, he has no case and he can be in court but he is also still involved with the commission and the commission can proceed just as it otherwise would, so we're opposed to this amendment. The fears that are being expressed are entirely imaginary and entirely unnecessary and the proponents of the amendments have been frightened by ghosts which don't exist in this picture at all. Therefore, we oppose the amendment.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President and ladies and gentlemen of the convention, I think we need to make a decision at this point as to whether we intend to have an effective, self-executing civil rights commission. It has been pointed out by several speakers that the last sentence of this proposal does present some problems. Several attempts have been made to at least make some correction and to make it possible for this commission to work effectively and to even give the legislature an opportunity to make changes where changes may be necessary. I sincerely hope that we will not pass up this opportunity, and perhaps our last opportunity, to make this commission effective. I urge a yes vote on this amendment.

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: Mr. President, members of the convention, I think that Mr. Martin has expressed mainly what I intended in the fact that we are not in any way interfering with the rights of the commission. This is merely to preserve rights running parallel, legal rights and equitable rights that

run parallel with the commission. It is unfortunate that the proponents of this amendment were not here to debate in committee of the whole. Nothing new has come out to date. Obviously this commission is going to affect legal and equitable rights. A branch of the executive department or the administrative department is going to affect those rights if people are not allowed to protect themselves in court. I urge you to vote against this amendment.

PRESIDENT NISBET: There is a minute and a half left. The Chair recognizes Mrs. Elliott.

MRS. DAISY ELLIOTT: Mr. President and fellow delegates, the language in the last sentence in the committee proposal, which is the Donnelly amendment, clearly cold-waters the intent of the proponents of the civil rights commission. It weakens the powers of the commission by allowing persons to bypass the commission and go directly to court, therefore rendering the commission entirely ineffective at that time.

PRESIDENT NISBET: Mr. Young.

MR. YOUNG: Mr. President, I'd like to ask Mr. Martin a question, if I may.

PRESIDENT NISBET: If Mr. Martin cares to answer.

MR. YOUNG: Mr. Martin, at the time we considered this proposal on first reading there were considerable questions raised about this selfsame last sentence and it was indicated on the floor of this convention—the committee of the whole at that time—that the committee recognized these problems and would make certain changes in order to clean up this language. I'd like to know what changes, if any, the committee has in order to straighten out this situation.

MR. MARTIN: Mr. Young, I didn't indicate that we were going to change anything, but I said that we would look the language over to see if it did any harm, and we are satisfied that it doesn't do any harm; that it does not take these problems away from the commission and that it does not vitiate the purpose of the general proposal. So we felt that no change was necessary and that the proposal as it came out of the committee of the whole was satisfactory.

PRESIDENT NISBET: Time has expired. The yeas and nays have been demanded. The question is on the amendment. Those in favor will vote aye. Those opposed will vote nay.

MR. YOUNG: Mr. President, I'd like to announce my intention of abstaining on this vote.

PRESIDENT NISBET: Mr. Young abstains. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. YOUNG: I anticipate the defeat of this amendment. I will vote yes.

*The roll was called and the delegates voted as follows:*

#### Yeas—41

Austin	Follo	McGowan, Miss
Baginski	Ford	McLogan
Balcer	Garvin	Murphy
Barthwell	Hannah, J. A.	Norris
Bentley	Hart, Miss	Ostrow
Binkowski	Hatcher, Mrs.	Perlich
Bledsoe	Hodges	Romney
Bradley	Hood	Sablich
Buback	Jones	Snyder
Cushman, Mrs.	Kelsey	Staiger
Douglas	Lesinski	Suzore
Downs	Mahinske	Wilkowski
Elliott, Mrs. Daisy	Marshall	Young
Faxon	McCauley	

#### Nays—78

Allen	Gover	Pugsley
Anspach	Haskill	Rajkovich
Batchelor	Hatch	Richards, J. B.
Beaman	Higgs	Richards, L. W.
Blandford	Howes	Rood
Bonisteel	Hoxie	Rush
Brake	Hutchinson	Seyferth
Butler, Mrs.	Iverson	Shackleton
Conklin, Mrs.	Judd, Mrs.	Shaffer
Cudlip	Karn	Shanahan
Danhof	Kirk, S.	Sharpe

Dehnke	Knirk, B.	Spitler
Dell	Koeze, Mrs.	Stafseth
DeVries	Kuhn	Stamm
Donnelly, Miss	Lawrence	Sterrett
Doty, Dean	Leibrand	Stevens
Doty, Donald	Leppien	Thomson
Durst	Martin	Tubbs
Elliott, A. G.	Millard	Turner
Erickson	Mosier	Tweedie
Everett	Nisbet	Van Dusen
Farnsworth	Page	Wanger
Figy	Perras	White
Finch	Plank	Wood
Gadola	Powell	Woelfenden
Goebel	Prettie	Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Bradley, the yeas are 41; the nays, 78.

PRESIDENT NISBET: The amendment is not adopted. Would the board be cleared, please. Mr. Young.

MR. YOUNG: Mr. President, I think that this convention has taken a serious step toward weakening what had been one of the positive actions that we have taken here. I am not a lawyer and I can't tell you legally what the direct effect of the last sentence of this proposal would be. There seems to be substantial evidence that there is confusion and a difference among the lawyers here, and judging from Miss Donnelly's comments, there can be no doubt as to what the intention was in tacking on this last sentence. Now, I think that it would be a serious mistake for this convention to consume the time that we have in attempting to make history in our country in setting up the first constitutional civil rights commission and then to leave a cloud over the effectiveness of our work by inviting the courts to negate the effectiveness of the commission. It has been said that what we have done is a step forward and that while the last sentence weakens what we have done, it does not negate it. Others have made the charge that the last sentence completely vitiates the effectiveness of the proposal itself. I am not prepared to render a judgment on that score. One thing is for sure: we were better off without that last sentence, and having taken a step forward, this convention is now doing its best to move backward and cancel out its good work.

MR. AUSTIN: Mr. President.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Parliamentary inquiry. Are we now on the proposal?

PRESIDENT NISBET: That is correct.

MR. AUSTIN: I would just like to speak briefly on the proposal, Mr. President.

PRESIDENT NISBET: You may.

MR. AUSTIN: We have labored long to write a provision for this civil rights commission. I think a great deal of credit goes to all of those who have participated in developing this proposal. There are those of us who are a long way from being satisfied with the proposal as it is. We have made some serious attempts here to point out what we consider to be the difficulties and have actually made efforts to present amendments which would perfect. However, I do realize that this amendment was arrived at in a spirit of compromise and although it does not meet what I consider to be my expectations, I will vote in favor of it.

PRESIDENT NISBET: Mr. Norris.

MR. NORRIS: Mr. President, I think that in this strategic area of human relations, if this proposal is adopted, it is a step forward and I think that there can be a sharing of responsibility on the part of a wide assortment of delegates that brought forth this present state of this proposal. I would urge that we support it, mindful, however, of the fact that certain of the language is bound to create litigation, bound to create some dissipation of the mission and purpose of this particular proposal. Nevertheless, I think we ought to recognize that it is a step forward and that the convention ought to support it.

PRESIDENT NISBET: Mr. Howes.

MR. HOWES: Mr. President, fellow delegates, I believe, in the establishment of a civil rights commission, we are making a great step forward toward an ideal democracy. Progress

toward an ideal democracy has been going on in this world for thousands of years. The Romans had a democracy, but their democracy only said: I am as good as you are, and the rest of the world is to be our slave that the few of us here may live together on an equal basis. At about this same time one lonely man said, "You are as good as I am. Love thy neighbor as thyself." And based upon this doctrine, a great spiritual democracy has grown, the like of which the world has never known.

Now, in our own country the first and greatest advocate of this ideal democracy in government was Abraham Lincoln when he demanded that the south have an equal chance with the north in rebuilding after the civil war and he said: you are as good as I am, when he demanded that all people, whatever their color, have an equal opportunity in this country.

Now, in creating this civil rights commission, the majority is saying to the minority: you are as good as we are. We are not waiting for you to break the door down in your demands for equal opportunity. As is our usual concept of democracy, we are opening the door to you. We will see that your labor gains just rewards; that your work and your worth go hand in hand. Whatever your race, religion or color, we guarantee to you an equal opportunity, in whatever you attempt to do, with every other person in this country.

Yes, I believe we are making a great step forward and toward that ideal democracy of which Robert Burns spoke when he said, "Man to man the world o'er shall brothers be for a' that."

**PRESIDENT NISBET:** The Chair recognizes Mr. Lawrence.

**MR. LAWRENCE:** Mr. President, members of the convention, I think, in this field that we have just covered, there is room for a great deal of difference of opinion. That has been demonstrated. Certainly, if there is a majority of the delegates who feel that it is necessary for the protection of their constitutional civil rights to provide in the constitution for this commission—and certainly their opinions are entitled to respect—there are others who also feel that in this establishment of a civil rights commission, it would be an anomaly to deny the civil rights of others in their legal and equitable rights. I urge the passage of this.

**PRESIDENT NISBET:** Mr. Bledsoe.

**MR. BLEDSOE:** Mr. President and fellow delegates, I have listened with a great deal of interest to all that has been said here today and other days. This is the first time I am going to give my vote in support of this commission. And I'd like to make this observation: that all of the rights that every American citizen has ever gained have been gained by the courts of our land, and we should never, and we can never forget that.

No subsidiary tribunal or ancillary quasi administrative agency or otherwise will ever, under our system of government, supplant our courts. And so long as we have that as a bulwark of our civil liberties, I don't think we will have a lot to worry about because all of us must go to our courts, in the final analysis, to have our rights, both civil, political and military, adjudicated. I think we have arrived at a great area of consensus and the light of progress scintillatingly streams ahead. (applause)

**PRESIDENT NISBET:** Mrs. Elliott.

**MRS. DAISY ELLIOTT:** Mr. President, fellow delegates, I realize that it is only human that many delegates are still a little disappointed because of the last sentence—although it is not exactly what we wanted, we thought that there would have been some concession on that—but as it is, I would like to urge my fellow delegates to support this proposal and I would like to take this opportunity to thank Mr. Bentley and Mr. Martin of the executive committee for having the courage to bring this proposal out on the floor for discussion. Thank you.

**PRESIDENT NISBET:** The question is on the adoption of Committee Proposal 71A. It is a record roll call vote. Those in favor will vote aye. Those opposed will vote nay.

**MR. HIGGS:** Mr. President, I'd like to abstain from voting.

**PRESIDENT NISBET:** Mr. Higgs is abstaining from voting. The vote is on Committee Proposal 71A. 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—110**

Allen	Garvin	Page
Andrus, Miss	Goebel	Perlich
Anspach	Hannah, J. A.	Perras
Austin	Hart, Miss	Plank
Baginski	Haskill	Pugsley
Balcer	Hatch	Radka
Barthwell	Hatcher, Mrs.	Rajkovich
Batchelor	Heideman	Richards, J. B.
Beaman	Hodges	Richards, L. W.
Bentley	Hood	Romney
Blandford	Howes	Rood
Bledsoe	Hoxie	Rush
Bonisteel	Iverson	Sablich
Bradley	Jones	Seyferth
Brake	Judd, Mrs.	Shaffer
Buback	Karn	Snyder
Butler, Mrs.	Kelsey	Spitler
Conklin, Mrs.	Knirk, B.	Stafseth
Cudlip	Koeze, Mrs.	Staiger
Cushman, Mrs.	Kuhn	Stamm
Danhof	Lawrence	Sterrett
Dehnke	Leibrand	Suzore
Dell	Leppien	Thomson
Donnelly, Miss	Lesinski	Tubbs
Doty, Donald	Mahinske	Turner
Douglas	Marshall	Tweedie
Downs	Martin	Upton
Durst	McAllister	Van Dusen
Elliott, A. G.	McCauley	Walker
Elliott, Mrs. Daisy	McGowan, Miss	Wanger
Erickson	McLogan	White
Everett	Millard	Wilkowski
Farnsworth	Mosier	Wood
Faxon	Murphy	Woolfenden
Figy	Nisbet	Young
Follo	Norris	Youngblood
Ford	Ostrow	

**Nays—9**

Doty, Dean	Hutchinson	Shanahan
Finch	Kirk, S.	Stevens
Gover	Powell	Yeager

**SECRETARY CHASE:** On the passage of Committee Proposal 71A, the yeas are 110; the nays, 9.

**PRESIDENT NISBET:** Committee Proposal 71A is passed.

*Following is explanation of vote submitted by Mrs. Daisy Elliott:*

I wish to state the following reasons for voting in favor of Committee Proposal 71A, section i on civil rights commission:

Although the Garvin and Elliott amendment which sought to allow the legislature to provide the necessary legislation for equitable remedies in the courts if and when necessary, was defeated along with other strengthening amendments, I voted for the committee proposal. The present language is a forward step in the area of civil rights. I urged the support of my fellow delegates because of my constant criticism of the legislature for refusing to adopt any of the civil rights bills introduced there in the last 5 years, also their failure to report any of them out of committee for the benefit of debate on the floor.

This convention has seen fit to provide the constitutional framework to guide the legislature in its future actions in the area of human rights. The present language even in its amended form serves to protect a large segment of the population against a common abuse. I believe that all American citizens, regardless of race, color, religion or ancestry, should share equally in the opportunities, freedom, and protections which the majority cherish and enjoy.

**PRESIDENT NISBET (continuing):** It is referred to the committee on style and drafting.

*For text of Committee Proposal 71A as rereferred to the committee on style and drafting, see above, page 2755.*

The secretary will read the next proposal.

**SECRETARY CHASE:** Item 11 on the calendar, **Substitute Proposal for Committee Proposal 59**, A proposal pertaining to vacancies in the office of governor. Amends article VI, section 16; and **Committee Proposal 60**, A proposal pertaining to succession to the governorship. Amends article VI, section 17.

*Following is Substitute Proposal for Committee Proposals 59 and 60 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, pages 1966 and 1987.):*

Sec. a. IN CASE OF THE CONVICTION OF THE GOVERNOR ON IMPEACHMENT, HIS REMOVAL FROM OFFICE, HIS RESIGNATION, OR THE 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 LIEUTENANT GOVERNOR, SECRETARY OF STATE, ATTORNEY GENERAL, AND SUCH OTHER PERSONS DESIGNATED BY LAW, WHO SHALL BE GOVERNOR AFTER THE COMMENCEMENT OF THEIR TERM FOR THE RESIDUE OF THE GOVERNOR'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 DEVOLVEMENT OF POWERS CEASES.

THE INABILITY OF THE GOVERNOR, GOVERNOR ELECT OR PERSONS SERVING 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.

**PRESIDENT NISBET:** The Chair recognizes Mr. Martin.

**MR. MARTIN:** Mr. President, this language, as you see, is all new. It is a combination of Committee Proposals 59 and 60, on which the committee on style and drafting did a lot of work in conjunction with our committee. We are well satisfied with it. We think it's a good compounding of the language and we hope you will approve of the proposal.

**PRESIDENT NISBET:** The question is on the substitute—Mr. Faxon.

**MR. FAXON:** This is on the proposal, is it not?

**PRESIDENT NISBET:** That is correct.

**MR. FAXON:** I didn't have a copy of this in my book. The question that I have deals with the second paragraph where the governor has been declared ill or his office vacant and it says, on the initiative of the supreme court they shall determine when the inability ceases. The question that I have is whether or not there shouldn't be some provision there to say that at the initiative of, say, the governor himself the inability should cease. What if the courts aren't meeting, or are not going to be there to do anything? What would happen?

**PRESIDENT NISBET:** Mr. Martin.

**MR. MARTIN:** Mr. President, the committee is of the opinion that if a matter of this kind ever arises, it will be of such great importance that the supreme court will be very alert to any change in situation and will, upon its own initiative, determine that the inability has ceased. So we felt that we could

not put this decision in the governor who had been declared to be subject to a disability. We had to leave it, we thought, with the court, who had made the initial determination.

**MR. FAXON:** Mr. President, I'd like to respond to this part of the question. It seems to me that this is vesting in the court a tremendous power. In terms of only on its own initiative, is it going to make a decision that the inability had ceased? I feel the least we could do here is to provide, say, not only on initiative of the court, but by the governor himself or some individuals of state who may call the court and ask them to make a ruling if they feel the inability has ceased. I understand there are times when the court may not be in session. There may be any number of conditions or circumstances that may exist that would make this highly discriminatory to the governor if his inability has ceased and the court seems to be moving slowly in judging it. So to leave this entirely in the hands of the court, entirely in their hands, not even permitting a citizen of the state to bring issue to the court, is to give them a grant of authority and power unlike any court that I've known of in history to make a determination of this sort and then be able to stick to it.

**PRESIDENT NISBET:** Mr. Marshall.

**MR. MARSHALL:** Mr. President and fellow delegates, there was considerable discussion, as I recall, in the committee on this subject as to whether or not the governor himself, along with his medical advisors, in the case of a physical disability, would be in a better position to determine this than a supreme court. I don't recall that I have knowledge—there might have been some, but no one, I believe, has pointed it out—of any problem having arisen in this area in the past. I would oppose the proposal. I am not offering an amendment, because of the reasons I gave this morning. It is obvious to me that the proposals are pretty well cut and dried in this particular section. I think the opinions are pretty well set. I do oppose the change. I think it's as true today, though, as it was when the bard of Avon said, lo, those many years ago, "a person convinced against his will is of the same opinion still." But I still oppose the change.

**PRESIDENT NISBET:** The question is on the Substitute Proposal for Committee Proposals 59 and 60. Those in favor of the substitute will say aye. Opposed, no.

The substitute is adopted. The question now is on the passage of the Substitute Proposal for Committee Proposals 59 and 60. Mr. Faxon has an amendment.

**SECRETARY CHASE:** Mr. Faxon offers the following amendment to the substitute:

1. Amend page 1, line 17, [paragraph 2] after "initiative" by inserting "or that of the governor"; so that the language will then read, "The supreme court shall upon its own initiative or that of the governor determine if and when the inability ceases."

**PRESIDENT NISBET:** Mr. Faxon.

**MR. FAXON:** Well, Mr. President, I don't want to belabor this but I still feel that the way this language reads, "its own initiative" gives the supreme court such a final power here that if the governor felt that he was well and he could perform the duties of his office, he should be able to at least take the initiative in asking the supreme court to make the necessary ruling that the inability has ceased. I think this is the right of any person to at least defend his own case. To make this a completely final thing, that the supreme court shall determine if and when the inability ceases, could permanently leave the governor out if they so desired. I think this is a tremendous grant of power and I think that at least the addition of the language that the governor could take the initiative would give some basic minimum protection to him.

**PRESIDENT NISBET:** Mr. Van Dusen.

**MR. VANDUSEN:** Mr. President, I move to limit debate on this amendment to 10 minutes.

**PRESIDENT NISBET:** The question is on limiting debate to 10 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. The Chair recognizes Mr. Marshall.

**MR. MARSHALL:** Mr. President, I support the Faxon amendment. While it is not as perfect as I would like to have it, this is one of those proposals where language was added by

**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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1.	Political Power ..... 15- 1
2.	Equal Protection under the Law .... 26a
3.	Right of Assembly and Petition .... 15- 2
4.	Freedom of Worship ..... 15- 3
5.	Liberty of Speech and Press ..... 15- 4
6.	Right to bear arms ..... 15- 5
7.	Civil Power Supreme ..... 15- 6
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9.	Slavery Prohibited ..... 15- 8
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16.	Bail; Fines; Punishments, detention of witnesses ..... 15-15
17.	Self-incrimination; due process of law 15-16
18.	Competency of witnesses ..... 15-17
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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
4. Elections, Place and Manner .....	58d
5. Elections, Time .....	58e
6. Expenditure of Money .....	58f
7. Board of Canvassers .....	58h
8. Recall .....	58g
9. Initiative and Referendum .....	118b

## 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



1 removed [t]herefrom. The legislature [may pro-  
2 vide the manner of voting by such persons but]  
3 shall not permit voting by any [such] person who  
4 meets the voting residence requirements of the  
5 state to which he has removed.

6 Sec. 4. The legislature shall enact laws to reg-  
7 ulate the time, place [,] and manner of all nom-  
8 inations and elections, except as otherwise pro-  
9 vided in this constitution or in the constitution  
10 and laws of the United States. The legislature  
11 shall enact laws to preserve the purity of elec-  
12 tions, to preserve the secrecy of the ballot, to  
13 guard against abuses of the elective franchise,  
14 and to provide for a system of voter registration  
15 and absentee voting. No law shall be enacted  
16 which permits a candidate in any partisan pri-  
17 mary or partisan election to have a ballot desig-  
18 nation except when required for identification  
19 of [persons who are] candidates for the same  
20 office WHO [and] have the same or similar sur-  
21 names.

22 Sec. 5. Except for special elections to fill va-  
23 cancies, OR AS OTHERWISE PROVIDED IN  
24 THIS CONSTITUTION, all elections for national,  
25 state, county and township offices shall be held on  
26 the first Tuesday after the first Monday in Novem-  
27 ber in each even-numbered year[,] or on such  
28 other date as MEMBERS OF THE CONGRESS  
29 OF THE UNITED STATES ARE REGULARLY  
30 ELECTED [may hereafter be provided by the  
31 Constitution of the United States or by congress  
32 for election of members thereof].

33 Sec. 6. Whenever any question is REQUIRED  
34 TO BE submitted BY A POLITICAL SUBDIVI-  
35 SION to [a vote of] the electors which involves  
36 THE INCREASE OF ANY AD VALOREM TAX  
37 RATE LIMITATION FOR A PERIOD OF MORE  
38 THAN FIVE YEARS, the direct expenditure  
39 of public money, OR the issue of bonds, [or the  
40 increase of any ad valorem tax rate for a period  
41 of more than 5 years,] only [persons having the  
42 qualifications of] electors in, and who have prop-  
43 erty assessed for any ad valorem taxes in, any  
44 part of the district or territory to be affected  
45 by the result of such election or the lawful hus-  
46 bands or wives of such persons shall be entitled  
47 to vote thereon. All ELECTORS IN THE DIS-  
48 TRICT OR TERRITORY AFFECTED [persons  
49 having the qualifications of electors] may vote  
50 on all other questions, [involving an increase in  
51 any ad valorem tax rate and on borrowing by  
52 this state.]

53 Sec. 7. A board of state canvassers [consisting]  
54 of [4] FOUR members shall be established by law.  
55 No candidate for an office to be canvassed nor any  
56 inspector of elections shall be eligible to serve as  
57 a member of a board of canvassers. A majority  
58 of any board of canvassers shall not be composed  
59 of members of the same political party.

60 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 LEGISLA-  
TIVE SESSION AT WHICH THE LAW WAS  
ENACTED. To invoke the initiative or referen-  
dum, petitions signed by a number of registered  
electors, not less than [8] EIGHT percent for initia-  
tive 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 IN-  
VOKED 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 legisla-  
ture without change or amendment within 40 days  
from the time such petition is received by the legis-  
lature. 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 rejec-  
tion at the next [ensuing] general election. The  
legislature may reject any measure so proposed  
by initiative petition and propose a different meas-  
ure 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
5. Inter-Governmental Agreements ...	128a
6. Internal Improvement .....	101a
7. Laws remain in effect .....	44a
8. Advisory Opinions .....	96k

#### 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.

### ARTICLE IV LEGISLATIVE BRANCH

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1. Legislative Power, where vested ....	118a
2. Senate, Number, Term, Districts ....	80a
3. Representatives, Number, Term, Districts .....	80b
4. Legislative Districts, merger .....	80c
5. Island Areas .....	
6. Legislative Apportionment Commission .....	79a
7. Legislators, qualifications, removal ..	32a
8. Ineligibility of certain persons for office .....	112a
9. Legislators, ineligibility for certain appointments .....	120a
10. Conflict of interest .....	115a
11. Legislators, privileges .....	33a
12. Legislators, compensation .....	28a
13. Legislature, time of convening .....	116a
14. Senate and House, quorums .....	34a
15. Legislative Council .....	102c
16. Legislature, powers, rules .....	102a
17. Legislature, committees .....	102b
18. Legislature, journals, protest .....	114a

1	19.	Legislature, elections, recorded vote .	117a
2	20.	Legislature, open public meetings ...	103a
3	21.	Legislature, consent to adjourn .....	103a
4	22.	Bills .....	35a
5	23.	Style of laws .....	29a
6	24.	Laws, object and title	
7		First sentence .....	121a
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9	25.	Laws, revision .....	121a
10	26.	Bills, requirements for passage	
11		First sentence .....	105a
12		Remainder .....	104a
13	27.	Acts, immediate effect .....	121a
14	28.	Bills, subjects at special session .....	105a
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16	30.	Appropriations for local purposes ...	41a
17	31.	General appropriations, priority .....	46b
18	32.	Tax laws, title .....	53a
19	33.	Bills passed, approval and veto by	
20		governor .....	70a
21	34.	Referendum on certain bills .....	113a
22	35.	Publication of laws .....	24a
23	36.	Revision of laws, compilation .....	108a
24	37.	Administrative rules, suspension ....	123a
25	38.	Filling vacancies .....	122a
26	39.	Continuity of government .....	122a
27	40.	Liquor Control Commission .....	27a
28	41.	Lotteries .....	100a
29	42.	Ports and port districts .....	87a
30	43.	Banking and trust company laws ....	5a
31	44.	Jury in civil cases .....	99a
32	45.	Indeterminate sentences .....	106a
33	46.	Prohibition against death penalty ....	20a
34	47.	Chaplains .....	111a
35	48.	Resolution of public disputes .....	109a
36	49.	Regulation of employment .....	110a
37	50.	Atomic energy .....	127a
38	51.	Public Health .....	126a
39	52.	Natural resources .....	125a
40	53.	Auditor General .....	78a

#### 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 per-

centage 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.

1 from the further consideration of any measure.  
2 Each house shall BE THE SOLE judge of the  
3 qualifications, elections and returns of its mem-  
4 bers, and may, with the concurrence of TWO-  
5 THIRDS [2/3] of all the members elected thereto  
6 and serving therein, expel a member. The reasons  
7 for such expulsion shall be entered IN [upon] the  
8 journal, with the [yeas and nays] VOTES AND  
9 NAMES of the members voting upon the ques-  
10 tion. No member shall be expelled a second time  
11 for the same cause.

12 Sec. 17. Each house of the legislature may  
13 establish the committees necessary for the effi-  
14 cient conduct of its business and the legislature  
15 may create joint committees. Each committee  
16 shall [keep a recorded] BY roll call vote RECORD  
17 THE VOTE AND NAME [by yeas and nays] of  
18 all action on bills and resolutions taken in the  
19 committee. Such vote shall be available FOR [to]  
20 public inspection. Notice of all committee hear-  
21 ings and a clear statement of all subjects to be  
22 considered at each hearing shall be published in  
23 the journal in advance of the hearing.

24 Sec. 18. Each house shall keep a journal of  
25 its proceedings, and publish the same unless se-  
26 curity otherwise requires. The [yeas and nays]  
27 RECORD OF THE VOTE AND NAME of the  
28 members of either house VOTING on any question  
29 shall be entered in the journal at the request of  
30 [1/5] ONE-FIFTH of the members present. Any  
31 member of either house may dissent from and  
32 protest against any act, proceeding or resolution  
33 which he deems injurious to any person or the  
34 public, and have the reason for his dissent entered  
35 in the journal.

36 Sec. 19. All elections in either house or in  
37 joint convention and all votes on appointments  
38 [recommended to the senate for confirmation]  
39 SUBMITTED TO THE SENATE FOR ADVICE  
40 AND CONSENT shall be [taken by yeas and  
41 nays and] published BY VOTE AND NAME in  
42 the journal.

43 Sec. 20. The doors of each house shall be open  
44 unless the public security otherwise requires.

45 Sec. 21. Neither house shall, without the con-  
46 sent of the other, adjourn for more than [3] TWO  
47 INTERVENING CALENDAR days, nor to any  
48 place other than where the legislature may then  
49 be in session.

50 Sec. 22. All legislation [by the legislature]  
51 shall be by bill and may originate in either house.

52 Sec. 23. The style of the laws shall be: The  
53 People of the State of Michigan enact.

54 Sec. 24. No law shall embrace more than one  
55 object, which shall be expressed in its title. No  
56 bill shall be altered or amended on its passage  
57 through either house so as to change its original  
58 purpose as determined by its total content and  
59 not alone by its title.

60 Sec. 25. No law shall be revised, altered or

1 amended by reference to its title only. The section  
2 or sections of the act altered or amended shall  
3 be re-enacted and published at length.

4 Sec. 26. No bill shall be passed or become a  
5 law at any regular session of the legislature until  
6 it has been printed or reproduced and in the pos-  
7 session of each house for at least [5] FIVE days.  
8 Every bill shall be read THREE [3] times in each  
9 house before the final passage thereof. No bill  
10 shall become a law without the concurrence of a  
11 majority of [all] the members elected to and  
12 serving in each house. On the final passage of [all]  
13 bills, the voteS AND NAMES OF THE MEMBERS  
14 VOTING THEREON shall be [by yeas and nays  
15 and] entered in the journal.

16 Sec. 27. No act shall take effect [or be in force]  
17 until the expiration of 90 days from the end of  
18 the session at which it was passed, but the legis-  
19 lature may give immediate effect to acts by a [2/3]  
20 TWO-THIRDS vote of the members elected to and  
21 serving in each house.

22 Sec. 28. When the legislature is convened on  
23 extraordinary occasions in special session no bill  
24 shall be passed on any subjects other than those  
25 expressly stated in the governor's proclamation  
26 or submitted by special message.

27 Sec. 29. The legislature shall pass no local  
28 or special act in any case where a general act can  
29 be made applicable, and whether a general act  
30 can be made applicable shall be a judicial question.  
31 No local or special act shall take effect until  
32 approved by TWO-THIRDS [2/3] of the mem-  
33 bers elected to and serving in each house [of the  
34 legislature] and by a majority of the electors vot-  
35 ing thereon in the district [to be] affected. Any  
36 act repealing local or special acts [in effect as of  
37 the effective date of this constitution] shall re-  
38 quire only a majority of the members elected to  
39 and serving in each house and shall not require  
40 submission to the electors of such district.

41 Sec. 30. The assent of TWO-THIRDS [2/3] of  
42 the members elected to and serving in each house  
43 of the legislature shall be required for the appro-  
44 priation of public money or property for local or  
45 private purposes.

46 Sec. 31. The general appropriation bills for the  
47 succeeding fiscal period covering items set forth  
48 in the budget shall be passed or rejected in either  
49 house of the legislature before that house passes  
50 any appropriation bill for items not in the budget  
51 except bills supplementing appropriations for the  
52 current FISCAL year's operation. Any bill re-  
53 quiring an appropriation to carry out its purpose  
54 shall be considered an appropriation bill. One of  
55 the general appropriation bills as passed by the  
56 legislature shall contain an itemized statement of  
57 estimated revenue by major source in each oper-  
58 ating fund for the ensuing fiscal period, the total  
59 of which shall not be less than the total of all  
60 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-

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 [devolvment] 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] PRE-SCRIBED 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 AP-PROVED IN EACH AFFECTED COUNTY BY A MAJORITY OF THE ELECTORS VOTING ON THE QUESTION. [or combine] THE LEGISLA-

TURE 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. Whenever 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

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## 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 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. [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]

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 &amp; 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

1 on the adoption of the constitution. The board  
 2 of election commissioners in each county shall  
 3 cause to be printed on a ballot separate from  
 4 the ballot containing the names of the nominees  
 5 for office, the words: ["] Shall the revised con-  
 6 stitution be adopted? ( ) Yes. ( ) No. ["] All  
 7 votes cast at THE [this] election shall be taken,  
 8 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.

[Article V, sections 1 through 28, was read by the secretary. For text, see above, page 3057.]

VICE PRESIDENT HUTCHINSON: The article 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 V of the proposed revision of the constitution:

sec-	col-	tion umn	line	Corrections
		3	1	47 After "senate [" change period to a comma.
		7	2	40 After "governor" insert "[,]".
25	1	24		After "vest" insert a comma.
25	1	29		After "[" insert a comma before "who"]".
25	1	33		After "IN" strike out "THE".
25	1	35		After "ELECT," insert "THE".
25	1	36		After the first "ELECT," insert "THE".
25	1	38-9		After "SHALL" strike out "IN THAT ORDER BECOME GOVERNOR" and insert "BECOME GOVERNOR IN THAT ORDER".

VICE PRESIDENT HUTCHINSON: Without objection, it is so ordered. [Corrections made above.] The secretary has an amendment on the desk, which he will read.

SECRETARY CHASE: Mrs. Cushman offers the following amendment:

1. Amend article V, section 9 (column 1, line 14) after "and" by inserting "shall"; so, beginning at line 10, the language will read: 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.

VICE PRESIDENT HUTCHINSON: Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, this, I believe, is in the nature of a perfecting amendment. I checked with Mr. Martin and he had no objection to it.

We noticed that up in line 10 it says, "He may remove," and I do believe the intent was, if he did remove, that he should report the reasons for the removal and if we do not put in the "shall" here, then that report goes back to "may;" so you would say that he may remove and he may report. I think the intent of the convention was that if he does remove he shall report the reasons for such removal.

VICE PRESIDENT HUTCHINSON: All in favor of the amendment will say aye. Opposed will say no.

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Higgs offers the following amendment:

1. Amend article V, section 28 (second column, following line 57) by adding a new paragraph to read as follows:

"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."

VICE PRESIDENT HUTCHINSON: Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, this particular sentence is proposed to be added to the civil rights commission article but in no way is to be substituted for or to change the wording of the provision as it is now approved by this convention.

The background of this particular sentence is actually a digest of MSA section 17.458 (8), a part of the Michigan state fair employment practices act. What is involved here is to provide an orderly method or an orderly procedure for appealing from orders of the commission. I think, in view of the experience that the state has had — which to my understanding has been satisfactory and approved by the people working with this commission — that this practice has been satisfactory and that this, in effect, will give greater significance and meaning to this particular article.

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

Now, of course, in view of the fact that we are actually writing into the constitution a commission, I think it is most significant that we pay as much attention to details as possible, and this is what led me to read and examine the Michigan fair employment practices act. This involves about 8 pages of statutory detail. I think that, actually, the commission that we have provided for in the constitution is as fairly complete as possible in constitutional language. There is a great deal that must be involved by way of implementation by the legislature. I would like, however, to give further direction and significance to this particular method of procedure, inasmuch as I think we have not provided or shown the way.

So that you will all understand just what is meant by the words in this sentence, this actually is a digest of about 3 or 4 times the language that appears in the section cited. The words "de novo," of course, mean a new trial. It means that a person who is really aggrieved has the opportunity to re-present his evidence before a court of law. However, this appeal procedure involves an appeal from the final order of the commission.

I think that, actually, according to my information, there are many matters that come before these commissions that do not involve a great deal by way of money. They do not involve a great deal by way of case or controversy in the ordinary sense, and probably the bulk of matters that will come before this commission will be handled by the commission satisfactorily to all parties. Now, in those instances where a party feels aggrieved, I think that his opportunity should be in the courts of the state.

It was my understanding that — before I offered this amendment I had made an effort to communicate as broadly as possible with interested persons in this convention and it seemed to me that there is substantial support here for this procedure, for these words, for this provision. I would like to yield the floor to those interested persons who would like to speak upon it.

VICE PRESIDENT HUTCHINSON: Mr. Garvin.

MR. GARVIN: Mr. President and delegates, of course you know I have been interested in this particular section, section 28. I was somewhat concerned and still am about the last sentence in that section. However, it seems that over the 2 readings — and this is the third reading — the delegation is determined to keep it in.

In line with that, I believe that the amendment of Delegate Higgs is rather in line with the general intent to give the person aggrieved, whether he be plaintiff or defendant, the right to have a new trial before a court. "De novo" means "anew," which means that they shall try the case from the beginning, before the circuit court. I can have no objection to that addition to this particular section and I will not oppose it.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment. Mr. Martin.

MR. MARTIN: Mr. President, Mr. Higgs' amendment has had a good deal of discussion. Mr. Garvin and a good many others have looked at it. It seems to be a reasonable addition and it does provide the same provisions, precisely, as the fair employment practices act on this matter. It requires a trial de novo on any matter that is appealed to the courts. I think it is probably a desirable amendment and I think the committee would favor it.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment. Mr. Barthwell.

MR. BARTHWELL: Mr. President and fellow delegates, this puts the nonlawyer in a pretty bad position here. These big words "de novo" and all this stuff is kind of confusing. I have been trying to find out exactly what the lawyers are talking about, but to me this seems like a desirable amendment so I want to urge the delegates to vote yes for the amendment, please.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment. All those in favor will say aye. Opposed will say no.

The amendment is adopted.

SECRETARY CHASE: Mr. Martin offers the following amendment:

1. Amend article V, section 20, (column 2, line 54) after "governor" by changing the period to a comma and inserting "with the advice and consent of the senate and from the same

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	Slader
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 legislative 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 reasons: 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 appoint-

ment. 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
Beamman	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.	Krolkowski	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 legisla-

tion, 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:

sec-	col-	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

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-

1 | trict in the city with which it is combined, if  
2 | provided by ordinance of the city. The district  
3 | or districts with which the territory shall be  
4 | combined shall be determined by such ordinance  
5 | certified to the secretary of state. No such change  
6 | in the boundaries of a representative or senatorial  
7 | district shall have the effect of removing a legis-  
8 | lator from office during his term.

9 | Sec. 5. Island areas are considered to be con-  
10 | tiguous by land to the county of which they are  
11 | a part.

12 | Sec. 6. A commission on legislative apportion-  
13 | ment is hereby established consisting of eight  
14 | persons, four of whom shall be selected by the  
15 | state organizations of each of the two political  
16 | parties whose candidates for governor received  
17 | the highest vote at the last general election at  
18 | which a governor was elected preceding each ap-  
19 | portionment. If a candidate for governor of a third  
20 | political party has received at such election more  
21 | than 25 percent of such gubernatorial vote, the  
22 | commission shall consist of 12 members, four of  
23 | whom shall be selected by the state organization of  
24 | the third political party. One member of the com-  
25 | mission shall be selected by each political party or-  
26 | ganization from each of the following four regions:  
27 | (1) The upper peninsula; (2) The northern part of  
28 | the lower peninsula, north of a line drawn along  
29 | the northern boundaries of the counties of Bay,  
30 | Midland, Isabella, Mecosta, Nwaygo and Oceana;  
31 | (3) Southwestern Michigan, those counties south  
32 | of region (2) and west of a line drawn along  
33 | the western boundaries of the counties of Bay,  
34 | Saginaw, Shiawassee, Ingham, Jackson and Hills-  
35 | dale; (4) Southeastern Michigan, the remaining  
36 | counties of the state.

37 | No officers or employees of the federal, state  
38 | or local governments, excepting notaries public  
39 | and members of the armed forces reserve, shall  
40 | be eligible for membership on the commission.  
41 | Members of the commission shall not be eligible  
42 | for election to the legislature until two years after  
43 | the apportionment in which they participated  
44 | becomes effective.

45 | The commission shall be appointed immediately  
46 | after the adoption of this constitution and when-  
47 | ever apportionment or districting of the legislature  
48 | is required by the provisions of this constitution.  
49 | Members of the commission shall hold office until  
50 | each apportionment or districting plan becomes  
51 | effective. Vacancies shall be filled in the same  
52 | manner as for original appointment.

53 | The secretary of state shall be secretary of  
54 | the commission without vote, and in that capacity  
55 | shall furnish, under the direction of the commis-  
56 | sion, all necessary technical services. The com-  
57 | mission shall elect its own chairman, shall make  
58 | its own rules of procedure, and shall receive com-  
59 | pensation provided by law. The legislature shall  
60 | appropriate funds to enable the commission to

carry out its activities.

1 | Within 30 days after the adoption of this con-  
2 | stitution, and after the official total population  
3 | count of each federal decennial census of the state  
4 | and its political subdivisions is available, the se-  
5 | cretary of state shall issue a call convening the  
6 | commission not less than 30 nor more than 45  
7 | days thereafter. The commission shall complete  
8 | its work within 180 days after all necessary census  
9 | information is available. The commission shall  
10 | proceed to district and apportion the senate and  
11 | house of representatives according to the provi-  
12 | sions of this constitution. All final decisions shall  
13 | require the concurrence of a majority of the mem-  
14 | bers of the commission. The commission shall hold  
15 | public hearings as may be provided by law.

16 | Each final apportionment and districting plan  
17 | shall be published as provided by law within 30  
18 | days from the date of its adoption and shall be-  
19 | come law 60 days after publication. The secre-  
20 | tary of state shall keep a public record of all the  
21 | proceedings of the commission and shall be re-  
22 | sponsible for the publication and distribution of  
23 | each plan.

24 | If a majority of the commission cannot agree  
25 | on a plan, each member of the commission, indi-  
26 | vidualy or jointly with other members, may sub-  
27 | mit a proposed plan to the supreme court. The  
28 | supreme court shall determine which plan com-  
29 | plies most accurately with the constitutional re-  
30 | quirements and shall direct that it be adopted  
31 | by the commission and published as provided  
32 | in this section.

33 | Upon the application of any elector filed not  
34 | later than 60 days after final publication of the  
35 | plan, the supreme court, in the exercise of origi-  
36 | nal jurisdiction, shall direct the secretary of  
37 | state or the apportionment commission to per-  
38 | form their duties, may review any final plan  
39 | adopted by the commission, and shall remand  
40 | such plan to the commission for further action  
41 | if it fails to comply with the requirements of  
42 | this constitution.

43 | Sec. 7. Each senator and representative  
44 | must be a citizen of the United States, at least  
45 | 21 years of age, and an elector of the district  
46 | he represents. The removal of his domicile from  
47 | the district shall be deemed a vacation of the  
48 | office. No person who has been convicted of sub-  
49 | version or who has within the preceding 20 years  
50 | been convicted of a felony involving a breach  
51 | of public trust shall be eligible for either house  
52 | of the legislature.

53 | Sec. 8. No person holding any office under the  
54 | United States or this state or a political subdi-  
55 | vision thereof, except notaries public and officers  
56 | of the armed forces reserve, may be a member of  
57 | either house of the legislature.

58 | Sec. 9. No person elected to the legislature  
59 | shall receive any civil appointment within this  
60 |

1 state from the governor, except notaries public,  
2 from the legislature, or from any other state  
3 authority, during the term for which he is elected.

4 Sec. 10. No member of the legislature nor any  
5 state officer shall be interested directly or in-  
6 directly in any contract with the state or any  
7 political subdivision thereof which shall cause a  
8 substantial conflict of interest. The legislature  
9 shall further implement this provision by appro-  
10 priate legislation.

11 Sec. 11. Senators and representatives shall be  
12 privileged from civil arrest and civil process dur-  
13 ing sessions of the legislature and for five days  
14 next before the commencement and after the  
15 termination thereof. They shall not be ques-  
16 tioned in any other place for any speech in either  
17 house.

18 Sec. 12. The compensation and expense al-  
19 lowances of the members of the legislature shall  
20 be determined by law. Changes in compensation  
21 or expense allowances shall become effective only  
22 when legislators commence their terms of office  
23 after a general election.

24 Sec. 13. The legislature shall meet at the seat  
25 of government on the second Wednesday in Janu-  
26 ary of each year at twelve o'clock noon. Each  
27 regular session shall adjourn without day, on a  
28 day determined by concurrent resolution, at  
29 twelve o'clock noon. Any business, bill or joint  
30 resolution pending at the final adjournment of  
31 a regular session held in an odd numbered year  
32 shall carry over with the same status to the  
33 next regular session.

34 Sec. 14. A majority of the members elected  
35 to and serving in each house shall constitute a  
36 quorum to do business. A smaller number in  
37 each house may adjourn from day to day, and  
38 may compel the attendance of absent members in  
39 the manner and with penalties as each house may  
40 prescribe.

41 Sec. 15. There shall be a bi-partisan legisla-  
42 tive council consisting of legislators appointed in  
43 the manner prescribed by law. The legislature  
44 shall appropriate funds for the council's opera-  
45 tions and provide for its staff which shall main-  
46 tain bill drafting, research and other services  
47 for the members of the legislature. The council  
48 shall periodically examine and recommend to the  
49 legislature revision of the various laws of the  
50 state.

51 Sec. 16. Each house, except as otherwise pro-  
52 vided in this constitution, shall choose its own  
53 officers and determine the rules of its proceedings,  
54 but shall not adopt any rule that will prevent a  
55 majority of the members elected thereto and  
56 serving therein from discharging a committee  
57 from the further consideration of any measure.  
58 Each house shall be the sole judge of the quali-  
59 fications, elections and returns of its members,  
60 and may, with the concurrence of two-thirds of

1 all the members elected thereto and serving  
2 therein, expel a member. The reasons for such  
3 expulsion shall be entered in the journal, with  
4 the votes and names of the members voting upon  
5 the question. No member shall be expelled a  
6 second time for the same cause.

7 Sec. 17. Each house of the legislature may  
8 establish the committees necessary for the effi-  
9 cient conduct of its business and the legislature  
10 may create joint committees. Each committee  
11 shall by roll call vote record the vote and name  
12 of all action on bills and resolutions taken in  
13 the committee. Such vote shall be available for  
14 public inspection. Notice of all committee hear-  
15 ings and a clear statement of all subjects to be  
16 considered at each hearing shall be published in  
17 the journal in advance of the hearing.

18 Sec. 18. Each house shall keep a journal of  
19 its proceedings, and publish the same unless the  
20 public security otherwise requires. The record  
21 of the vote and name of the members of either  
22 house voting on any question shall be entered  
23 in the journal at the request of one-fifth of the  
24 members present. Any member of either house  
25 may dissent from and protest against any act,  
26 proceeding or resolution which he deems injuri-  
27 ous to any person or the public, and have the  
28 reason for his dissent entered in the journal.

29 Sec. 19. All elections in either house or in  
30 joint convention and all votes on appointments  
31 submitted to the senate for advice and consent  
32 shall be published by vote and name in the journal.

33 Sec. 20. The doors of each house shall be open  
34 unless the public security otherwise requires.

35 Sec. 21. Neither house shall, without the con-  
36 sent of the other, adjourn for more than two  
37 intervening calendar days, nor to any place other  
38 than where the legislature may then be in session.

39 Sec. 22. All legislation shall be by bill and  
40 may originate in either house.

41 Sec. 23. The style of the laws shall be: The  
42 People of the State of Michigan enact.

43 Sec. 24. No law shall embrace more than one  
44 object, which shall be expressed in its title. No  
45 bill shall be altered or amended on its passage  
46 through either house so as to change its original  
47 purpose as determined by its total content and  
48 not alone by its title.

49 Sec. 25. No law shall be revised, altered or  
50 amended by reference to its title only. The section  
51 or sections of the act altered or amended shall  
52 be re-enacted and published at length.

53 Sec. 26. No bill shall be passed or become a  
54 law at any regular session of the legislature until  
55 it has been printed or reproduced and in the pos-  
56 session of each house for at least five days. Every  
57 bill shall be read three times in each house be-  
58 fore the final passage thereof. No bill shall be-  
59 come a law without the concurrence of a majority  
60 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 be-

come 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.

1 Sec. 20. Whenever a justice or judge removes  
2 his domicile beyond the limits of the territory  
3 from which he was elected, he shall have vacated  
4 his office.

5 Sec. 21. Any justice or judge of a court of  
6 record shall be ineligible to be nominated for  
7 or elected to an elective office other than a judicial  
8 office during the period of his service and for  
9 one year thereafter.

10 Sec. 22. Any elected judge of the court of  
11 appeals, circuit court or probate court may be-  
12 come a candidate in the primary election for the  
13 office of which he is the incumbent by filing an  
14 affidavit of candidacy in the form and manner  
15 prescribed by law.

16 Sec. 23. A vacancy in the elective office of a  
17 judge of any court of record shall be filled at a  
18 general or special election as provided by law.  
19 The supreme court may authorize persons who  
20 have served as judges and who have retired, to  
21 perform judicial duties for the limited period of  
22 time from the occurrence of the vacancy until  
23 the successor is elected and qualified. Such per-  
24 sons shall be ineligible for election to fill the  
25 vacancy.

26 Sec. 24. There shall be printed upon the ballot  
27 under the name of each elected incumbent justice  
28 or judge who is a candidate for nomination or  
29 election to the same office the designation of  
30 that office.

31 Sec. 25. For reasonable cause, which is not  
32 sufficient ground for impeachment, the governor  
33 shall remove any judge on a concurrent resolution  
34 of two-thirds of the members elected to and serv-  
35 ing in each house of the legislature. The cause  
36 for removal shall be stated at length in the  
37 resolution.

38 Sec. 26. The offices of circuit court commis-  
39 sioner and justice of the peace are abolished at  
40 the expiration of five years from the date this  
41 constitution becomes effective or may within this  
42 period be abolished by law. Their jurisdiction,  
43 compensation and powers within this period shall  
44 be as provided by law. Within this five-year period,  
45 the legislature shall establish a court or courts  
46 of limited jurisdiction with powers and jurisdic-  
47 tion defined by law. The location of such court  
48 or courts, and the qualifications, tenure, method  
49 of election and salary of the judges of such court  
50 or courts, and by what governmental units the  
51 judges shall be paid, shall be provided by law,  
52 subject to the limitations contained in this Article.

53 Statutory courts in existence at the time this  
54 constitution becomes effective shall retain their  
55 powers and jurisdiction, except as provided by  
56 law, until they are abolished by law.

57 Sec. 27. The supreme court, the court of ap-  
58 peals, the circuit court, or any justices or judges  
59 thereof, shall not exercise any power of appoint-  
60 ment to public office except as provided in this

constitution.

1 Sec. 28. All final decisions, findings, rulings  
2 and orders of any administrative officer or agency  
3 existing under the constitution or by law, which  
4 are judicial or quasi-judicial and affect private  
5 rights or licenses, shall be subject to direct re-  
6 view by the courts as provided by law. This re-  
7 view shall include, as a minimum, the determina-  
8 tion whether such final decisions, findings, rulings  
9 and orders are authorized by law; and, in cases in  
10 which a hearing is required, whether the same  
11 are supported by competent, material and sub-  
12 stantial evidence on the whole record. Findings  
13 of fact in workmen's compensation proceedings  
14 shall be conclusive in the absence of fraud un-  
15 less otherwise provided by law.

16 Sec. 29. Justices of the supreme court, judges  
17 of the court of appeals, circuit judges and other  
18 judges as provided by law shall be conservators  
19 of the peace within their respective jurisdictions.

## Article VII

### Local Government

1 Sec. 1. Each organized county shall be a body  
2 corporate with powers and immunities provided  
3 by law.

4 Sec. 2. Any county may frame, adopt, amend  
5 or repeal a county charter in a manner and with  
6 powers and limitations to be provided by general  
7 law, which shall among other things provide for  
8 the election of a charter commission. The law  
9 may permit the organization of county govern-  
10 ment in form different from that set forth in this  
11 constitution and shall limit the rate of ad valorem  
12 property taxation for county purposes, and re-  
13 strict the powers of charter counties to borrow  
14 money and contract debts. Each charter county  
15 is hereby granted power to levy other taxes for  
16 county purposes subject to limitations and pro-  
17 hibitions set forth in this constitution or law.  
18 Subject to law, a county charter may authorize  
19 the county through its regularly constituted  
20 authority to adopt resolutions and ordinances re-  
21 lating to its concerns.

22 The board of supervisors by a majority vote  
23 of its members may, and upon petition of five  
24 percent of the electors shall, place upon the ballot  
25 the question of electing a commission to frame a  
26 charter.

27 No county charter shall be adopted, amended  
28 or repealed until approved by a majority of elec-  
29 tors voting on the question.

30 Sec. 3. No organized county shall be reduced  
31 by the organization of new counties to less than  
32 16 townships as surveyed by the United States,  
33 unless approved in the manner prescribed by law  
34 by a majority of electors voting thereon in each  
35 county to be affected.

36 Sec. 4. There shall be elected for four-year  
37 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.



1 Sec. 23. Any city or village may acquire, own,  
2 establish and maintain, within or without its  
3 corporate limits, parks, boulevards, cemeteries,  
4 hospitals and all works which involve the public  
5 health or safety.

6 Sec. 24. Subject to this constitution, any city  
7 or village may acquire, own or operate, within  
8 or without its corporate limits, public service  
9 facilities for supplying water, light, heat, power,  
10 sewage disposal and transportation to the municipi-  
11 lity and the inhabitants thereof.

12 Any city or village may sell and deliver heat,  
13 power or light without its corporate limits in an  
14 amount not exceeding 25 percent of that furnished  
15 by it within the corporate limits, except as greater  
16 amounts may be permitted by law; may sell and  
17 deliver water and provide sewage disposal services  
18 outside of its corporate limits in such amount as  
19 may be determined by the legislative body of the  
20 city or village; and may operate transportation  
21 lines outside the municipality within such limits  
22 as may be prescribed by law.

23 Sec. 25. No city or village shall acquire any  
24 public utility furnishing light, heat or power, or  
25 grant any public utility franchise which is not  
26 subject to revocation at the will of the city or  
27 village, unless the proposition shall first have been  
28 approved by three-fifths of the electors voting  
29 thereon. No city or village may sell any public  
30 utility unless the proposition shall first have been  
31 approved by a majority of the electors voting  
32 thereon, or a greater number if the charter shall  
33 so provide.

34 Sec. 26. Except as otherwise provided in this  
35 constitution, no city or village shall have the  
36 power to loan its credit for any private purpose  
37 or, except as provided by law, for any public pur-  
38 pose.

39 Sec. 27. Notwithstanding any other provision  
40 of this constitution the legislature may establish  
41 in metropolitan areas additional forms of govern-  
42 ment or authorities with powers, duties and juris-  
43 dictions as the legislature shall provide. Where-  
44 ever possible, such additional forms of govern-  
45 ment or authorities shall be designed to perform  
46 multi-purpose functions rather than a single  
47 function.

48 Sec. 28. The legislature by general law shall  
49 authorize two or more counties, townships, cities,  
50 villages or districts, or any combination thereof  
51 among other things to: enter into contractual  
52 undertakings or agreements with one another or  
53 with the state or with any combination thereof  
54 for the joint administration of any of the functions  
55 or powers which each would have the power to  
56 perform separately; share the costs and responsi-  
57 bilities of functions and services with one another  
58 or with the state or with any combination thereof  
59 which each would have the power to perform  
60 separately; transfer functions or responsibilities

1 to one another or any combination thereof upon  
2 the consent of each unit involved; cooperate with  
3 one another and with state government; lend their  
4 credit to one another or any combination thereof  
5 as provided by law in connection with any au-  
6 thorized publicly owned undertaking.

7 Any other provision of this constitution not-  
8 withstanding, an officer or employee of the state  
9 or any such unit of government or subdivision  
10 or agency thereof, except members of the legis-  
11 lature, may serve on or with any governmental  
12 body established for the purposes set forth in  
13 this section and shall not be required to relin-  
14 quish his office or employment by reason of such  
15 service.

16 Sec. 29. No person, partnership, association or  
17 corporation, public or private, operating a public  
18 utility shall have the right to the use of the high-  
19 ways, streets, alleys or other public places of  
20 any county, township, city or village for wires,  
21 poles, pipes, tracks, conduits or other utility  
22 facilities, without the consent of the duly con-  
23 stituted authority of the county, township, city  
24 or village; or to transact local business therein  
25 without first obtaining a franchise from the town-  
26 ship, city or village. Except as otherwise provided  
27 in this constitution the right of all counties, town-  
28 ships, cities and villages to the reasonable control  
29 of their highways, streets, alleys and public  
30 places is hereby reserved to such local units of  
31 government.

32 Sec. 30. No franchise or license shall be  
33 granted by any township, city or village for a  
34 period longer than 30 years.

35 Sec. 31. The legislature shall not vacate or  
36 alter any road, street, alley, or public place under  
37 the jurisdiction of any county, township, city or  
38 village.

39 Sec. 32. Any county, township, city, village,  
40 authority or school district empowered by the  
41 legislature or by this constitution to prepare bud-  
42 gets of estimated expenditures and revenues shall  
43 adopt such budgets only after a public hearing  
44 in a manner prescribed by law.

45 Sec. 33. Any elected officer of a political sub-  
46 division may be removed from office in the manner  
47 and for the causes provided by law.

48 Sec. 34. The provisions of this constitution and  
49 law concerning counties, townships, cities and vil-  
50 lages shall be liberally construed in their favor.  
51 Powers granted to counties and townships by this  
52 constitution and by law shall include those fairly  
53 implied and not prohibited by this constitution.

## Article VIII Education

1 Sec. 1. Religion, morality and knowledge being  
2 necessary to good government and the happiness  
3 of mankind, schools and the means of education  
4 shall forever be encouraged.

1 Sec. 2. The legislature shall maintain and sup-  
 2 port a system of free public elementary and sec-  
 3 ondary schools as defined by law. Every school  
 4 district shall provide for the education of its  
 5 pupils without discrimination as to religion, creed,  
 6 race, color or national origin.

7 Sec. 3. Leadership and general supervision over  
 8 all public education, including adult education and  
 9 instructional programs in state institutions, except  
 10 as to institutions of higher education granting  
 11 baccalaureate degrees, is vested in a state board  
 12 of education. It shall serve as the general plan-  
 13 ning and coordinating body for all public educa-  
 14 tion, including higher education, and shall advise  
 15 the legislature as to the financial requirements  
 16 in connection therewith.

17 The state board of education shall appoint a  
 18 superintendent of public instruction whose term  
 19 of office shall be determined by the board. He  
 20 shall be the chairman of the board without the  
 21 right to vote, and shall be responsible for the  
 22 execution of its policies. He shall be the principal  
 23 executive officer of a state department of educa-  
 24 tion which shall have powers and duties provided  
 25 by law.

26 The state board of education shall consist of  
 27 eight members who shall be nominated by party  
 28 conventions and elected at large for terms of  
 29 eight years as prescribed by law. The governor  
 30 shall fill any vacancy by appointment for the  
 31 unexpired term. The governor shall be ex-officio  
 32 a member of the state board of education with-  
 33 out the right to vote.

34 The power of the boards of institutions of higher  
 35 education provided in this constitution to super-  
 36 vise their respective institutions and control and  
 37 direct the expenditure of the institutions' funds  
 38 shall not be limited by this section.

39 Sec. 4. The legislature shall appropriate  
 40 moneys to maintain the university of Michigan,  
 41 Michigan State University, Wayne State Univer-  
 42 sity, Eastern Michigan University, Michigan Col-  
 43 lege of Science and Technology, Central Michi-  
 44 gan University, Northern Michigan University,  
 45 Western Michigan University, Ferris Institute,  
 46 Grand Valley State College, by whatever names  
 47 such institutions may hereafter be known, and  
 48 other institutions of higher education established  
 49 by law. The legislature shall be given an annual  
 50 accounting of all income and expenditures by each  
 51 of these educational institutions. Formal sessions  
 52 of governing boards of such institutions shall be  
 53 open to the public.

54 Sec. 5. The regents of the University of Michi-  
 55 gan and their successors in office shall constitute  
 56 a body corporate known as the Regents of the  
 57 University of Michigan; the trustees of Michigan  
 58 State University and their successors in office shall  
 59 constitute a body corporate known as the Board  
 60 of Trustees of Michigan State University; the

governors of Wayne State University and their  
 successors in office shall constitute a body corpor-  
 ate 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 su-  
 pervision. He shall be the principal executive of-  
 ficer 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 in-  
 stitution 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 ap-  
 pointee 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 in-  
 stitution 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 mem-  
 bers or may designate the president, to preside at  
 board meetings. Each board of control shall con-  
 sist 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 ad-  
 vice 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 plan-  
 ning 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. Va-  
 cancies shall be filled in like manner. The super-  
 intendent 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.

1     Sec. 9. The legislature shall provide by law for  
2 the establishment and support of public libraries  
3 which shall be available to all residents of the state  
4 under regulations adopted by the governing bodies  
5 thereof. All fines assessed and collected in the  
6 several counties, cities and townships for any  
7 breach of the penal laws shall be exclusively ap-  
8 plied to the support of such public libraries, and  
9 county law libraries as provided by law.

## Article IX

### Finance and Taxation

13     Sec. 1. The legislature shall impose taxes suf-  
14 ficient with other resources to pay the expenses of  
15 state government.

16     Sec. 2. The power of taxation shall never be  
17 surrendered, suspended or contracted away.

18     Sec. 3. The legislature shall provide for the  
19 uniform general ad valorem taxation of real and  
20 tangible personal property not exempt by law. The  
21 legislature shall provide for the determination of  
22 true cash value of such property; the proportion  
23 of true cash value at which such property shall  
24 be uniformly assessed, which shall not, after  
25 January 1, 1966, exceed 50 percent; and for a sys-  
26 tem of equalization of assessments. The legislature  
27 may provide for alternative means of taxation of  
28 designated real and tangible personal property in  
29 lieu of general ad valorem taxation. Every tax  
30 other than the general ad valorem property tax  
31 shall be uniform upon the class or classes on  
32 which it operates.

33     Sec. 4. Property owned and occupied by non-  
34 profit religious or educational organizations and  
35 used exclusively for religious or educational pur-  
36 poses, as defined by law, shall be exempt from  
37 real and personal property taxes.

38     Sec. 5. The legislature shall provide for the  
39 assessment by the state of the property of those  
40 public service businesses assessed by the state  
41 at the date this constitution becomes effective, and  
42 of other property as designated by the legislature,  
43 and for the imposition and collection of taxes  
44 thereon. Property assessed by the state shall be  
45 assessed at the same proportion of its true  
46 cash value as the legislature shall specify for  
47 property subject to general ad valorem taxation.  
48 The rate of taxation on such property shall be  
49 the average rate levied upon other property in this  
50 state under the general ad valorem tax law, or,  
51 if the legislature provides, the rate of tax applicable  
52 to the property of each business enterprise assessed  
53 by the state shall be the average rate of ad valorem  
54 taxation levied upon other property in all counties  
55 in which any of such property is situated.

56     Sec. 6. Except as otherwise provided in this  
57 constitution, the total amount of general ad valo-  
58 rem taxes imposed upon real and tangible per-  
59 sonal property for all purposes in any one year  
60 shall not exceed 15 mills on each dollar of the

1     assessed valuation of property as finally equalized.  
2 Under procedures provided by law, which shall  
3 guarantee the right of initiative, separate tax  
4 limitations for any county and for the townships  
5 and for school districts therein, the aggregate of  
6 which shall not exceed 18 mills on each dollar of  
7 such valuation, may be adopted and thereafter  
8 altered by the vote of a majority of the qualified  
9 electors of such county voting thereon, in lieu  
10 of the limitation hereinbefore established. These  
11 limitations may be increased to an aggregate of  
12 not to exceed 50 mills on each dollar of valuation,  
13 for a period of not to exceed 20 years at any one  
14 time, if approved by a majority of the electors,  
15 qualified under Section 6 of Article II of this  
16 constitution, voting on the question.

17     The foregoing limitations shall not apply to  
18 taxes imposed for the payment of principal and  
19 interest on bonds or other evidences of indebted-  
20 ness or for the payment of assessments or con-  
21 tract obligations in anticipation of which bonds  
22 are issued, which taxes may be imposed without  
23 limitation as to rate or amount; or to taxes im-  
24 posed for any other purpose by any city, vil-  
25 lage, charter county, charter township, charter  
26 authority or other authority, the tax limitations  
27 of which are provided by charter or by general  
28 law.

29     In any school district which extends into two  
30 or more counties, property taxes at the highest  
31 rate available in the county which contains the  
32 greatest part of the area of the district may be  
33 imposed and collected for school purposes through-  
34 out the district.

35     Sec. 7. No income tax graduated as to rate  
36 or base shall be imposed by the state or any of  
37 its subdivisions.

38     Sec. 8. The legislature shall not impose a  
39 sales tax on retailers at a rate of more than  
40 four percent of their gross taxable sales of  
41 tangible personal property.

42     Sec. 9. All specific taxes, except general sales  
43 and use taxes and regulatory fees, imposed di-  
44 rectly or indirectly on fuels sold or used  
45 to propel motor vehicles upon highways and on  
46 registered motor vehicles shall, after the payment  
47 of necessary collection expenses, be used exclusi-  
48 vely for highway purposes as defined by law.

49     Sec. 10. One-eighth of all taxes imposed on  
50 retailers on taxable sales at retail of tangible  
51 personal property shall be used exclusively for  
52 assistance to townships, cities and villages, on  
53 a population basis as provided by law. In de-  
54 termining population the legislature may exclude  
55 any portion of the total number of persons who  
56 are wards, patients or convicts in any tax sup-  
57 ported institution.

58     Sec. 11. There shall be established a state  
59 school aid fund which shall be used exclusively  
60 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 obli-

gation 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

1 shall be deposited in any bank in excess of 50  
2 percent of the capital and surplus of such bank.  
3 Any bank receiving deposits of state money shall  
4 show the amount of state money so deposited as  
5 a separate item in all published statements.

6 Sec. 21. The legislature shall provide by law  
7 for the annual accounting for all public moneys,  
8 state and local, and may provide by law for interim  
9 accounting.

10 The legislature shall provide by law for the  
11 maintenance of uniform accounting systems by  
12 units of local government and the auditing of  
13 county accounts by competent state authority  
14 and other units of government as provided by law.

15 Sec. 22. Procedures for the examination and  
16 adjustment of claims against the state shall be  
17 prescribed by law.

18 Sec. 23. All financial records, accountings,  
19 audit reports and other reports of public moneys  
20 shall be public records and open to inspection. A  
21 statement of all revenues and expenditures of pub-  
22 lic moneys shall be published and distributed  
23 annually, as provided by law.

24 Sec. 24. The accrued financial benefits of each  
25 pension plan and retirement system of the state  
26 and its political subdivisions shall be a contractual  
27 obligation thereof which shall not be diminished  
28 or impaired thereby.

29 Financial benefits arising on account of service  
30 rendered in each fiscal year shall be funded during  
31 that year and such funding shall not be used for  
32 financing unfunded accrued liabilities.

#### Article X Property

33 Sec. 1. The disabilities of coverture as to prop-  
34 erty are abolished. The real and personal estate of  
35 every woman acquired before marriage and all  
36 real and personal property to which she may after-  
37 wards become entitled shall be and remain the  
38 estate and property of such woman, and shall not  
39 be liable for the debts, obligations or engagements  
40 of her husband, and may be dealt with and dis-  
41 posed of by her as if she were unmarried. Dower  
42 may be relinquished or conveyed as provided by  
43 law.

44 Sec. 2. Private property shall not be taken for  
45 public use without just compensation therefor  
46 being first made or secured in a manner prescribed  
47 by law. The amount of compensation shall be  
48 determined in proceedings in a court of record.

49 Sec. 3. A homestead in the amount of not less  
50 than \$3,500 and personal property of every resi-  
51 dent of this state in the amount of not less than  
52 \$750, as defined by law, shall be exempt from  
53 forced sale on execution or other process of any  
54 court. Such exemptions shall not extend to any  
55 lien thereon excluded from exemption by law.

56 Sec. 4. Procedures relating to escheats and to  
57 the custody and disposition of escheated property

shall be prescribed by law.

58 Sec. 5. The legislature shall have general su-  
59 pervisory jurisdiction over all state owned lands  
60 useful for forest preserves, game areas and recrea-  
61 tional purposes; shall require annual reports as  
62 to such lands from all departments having super-  
63 vision or control thereof; and shall by general law  
64 provide for the sale, lease or other disposition of  
65 such lands.

66 The legislature by an act adopted by two-thirds  
67 of the members elected to and serving in each  
68 house may designate any part of such lands as  
69 a state land reserve. No lands in the state land  
70 reserve may be removed from the reserve, sold,  
71 leased or otherwise disposed of except by an act  
72 of the legislature.

73 Sec. 6. Aliens who are residents of this state  
74 shall enjoy the same rights and privileges in  
75 property as citizens of this state.

#### Article XI

##### Public Officers and Employment

76 Sec. 1. All officers, legislative, executive and  
77 judicial, before entering upon the duties of their  
78 respective offices, shall take and subscribe the  
79 following oath or affirmation: I do solemnly swear  
80 (or affirm) that I will support the Constitution  
81 of the United States and the constitution of this  
82 state, and that I will faithfully discharge the duties  
83 of the office of ..... according to the best of  
84 my ability. No other oath, affirmation, or any  
85 religious test shall be required as a qualification  
86 for any office or public trust.

87 Sec. 2. The terms of office of elective state  
88 officers, members of the legislature and justices  
89 and judges of courts of record shall begin at twelve  
90 o'clock noon on the first day of January next suc-  
91 ceeding their election, except as otherwise provided  
92 in this constitution. The terms of office of county  
93 officers shall begin on the first day of January  
94 next succeeding their election, except as otherwise  
95 provided by law.

96 Sec. 3. Neither the legislature nor any poli-  
97 tical subdivision of this state shall grant or author-  
98 ize extra compensation to any public officer, agent  
99 or contractor after the service has been rendered  
100 or the contract entered into.

101 Sec. 4. No person having custody or control of  
102 public moneys shall be a member of the legislature,  
103 or be eligible to any office of trust or profit under  
104 this state, until he shall have made an accounting,  
105 as provided by law, of all sums for which he may  
106 be liable.

107 Sec. 5. The classified state civil service shall  
108 consist of all positions in the state service except  
109 those filled by popular election, heads of principal  
110 departments, members of boards and commis-  
111 sions, the principal executive officer of boards and  
112 commissions heading principal departments, em-  
113 ployees 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 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 author-

ized 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-



1 dence. When the governor or lieutenant governor  
2 is tried, the chief justice of the supreme court  
3 shall preside.

4 No person shall be convicted without the con-  
5 currence of two-thirds of the senators elected and  
6 serving. Judgment in case of conviction shall not  
7 extend further than removal from office, but the  
8 person convicted shall be liable to punishment  
9 according to law.

10 No judicial officer shall exercise any of the  
11 functions of his office after an impeachment is  
12 directed until he is acquitted.

## Article XII

### Amendment & Revision

14 Sec. 1. Amendments to this constitution may  
15 be proposed in the senate or house of representa-  
16 tives. Proposed amendments agreed to by two-  
17 thirds of the members elected to and serving in  
18 each house on a vote with the names and vote of  
19 those voting entered in the respective journals  
20 shall be submitted, not less than 60 days there-  
21 after, to the electors at the next general election  
22 or special election as the legislature shall direct.  
23 If a majority of electors voting on a proposed  
24 amendment approve the same, it shall become  
25 part of the constitution and shall abrogate or  
26 amend existing provisions of the constitution at  
27 the end of 45 days after the date of the election  
28 at which it was approved.

29 Sec. 2. Amendments may be proposed to this  
30 constitution by petition of the registered electors  
31 of this state. Every petition shall include the full  
32 text of the proposed amendment, and be signed by  
33 registered electors of the state equal in number to  
34 at least 10 percent of the total vote cast for  
35 all candidates for governor at the last preceding  
36 general election at which a governor was elected.  
37 Such petitions shall be filed with the person au-  
38 thorized by law to receive the same at least 120  
39 days before the election at which the proposed  
40 amendment is to be voted upon. Any such petition  
41 shall be in the form, and shall be signed and  
42 circulated in such manner, as prescribed by law.  
43 The person authorized by law to receive such peti-  
44 tion shall upon its receipt determine, as provided  
45 by law, the validity and sufficiency of the signa-  
46 tures on the petition, and make an official an-  
47 nouncement thereof at least 60 days prior to the  
48 election at which the proposed amendment is to be  
49 voted upon.

50 Any amendment proposed by such petition shall  
51 be submitted, not less than 120 days after it was  
52 filed, to the electors at the next general election.  
53 Such proposed amendment, existing provisions of  
54 the constitution which would be altered or abro-  
55 gated thereby, and the question as it shall appear  
56 on the ballot shall be published in full as provided  
57 by law. Copies of such publication shall be posted  
58 in each polling place and furnished to news media

as provided by law.

59 The ballot to be used in such election shall con-  
60 tain a statement of the purpose of the proposed  
61 amendment, expressed in not more than 100 words,  
62 exclusive of caption. Such statement of purpose  
63 and caption shall be prepared by the person au-  
64 thorized by law, and shall consist of a true and  
65 impartial statement of the purpose of the amend-  
66 ment in such language as shall create no prejudice  
67 for or against the proposed amendment.

68 If the proposed amendment is approved by a  
69 majority of the electors voting on the question,  
70 it shall become part of the constitution, and  
71 shall abrogate or amend existing provisions of  
72 the constitution at the end of 45 days after  
73 the date of the election at which it was ap-  
74 proved. If two or more amendments approved by  
75 the electors at the same election conflict, that  
76 amendment receiving the highest affirmative vote  
77 shall prevail.

78 Sec. 3. At the general election to be held in  
79 the year 1978, and in each 16th year thereafter  
80 and at such times as may be provided by law, the  
81 question of a general revision of the constitution  
82 shall be submitted to the electors of the state. If  
83 a majority of the electors voting on the question  
84 decide in favor of a convention for such purpose,  
85 at an election to be held not later than six months  
86 after the proposal was certified as approved, the  
87 electors of each representative district as then  
88 organized shall elect one delegate and the elec-  
89 tors of each senatorial district as then organized  
90 shall elect one delegate at a partisan election.  
91 The delegates so elected shall convene at the seat  
92 of government on the first Tuesday in October  
93 next succeeding such election or at an earlier date  
94 if provided by law.

95 The convention shall choose its own officers,  
96 determine the rules of its proceedings and judge  
97 the qualifications, elections and returns of its mem-  
98 bers. The governor shall appoint a qualified  
99 resident of the same district to fill a vacancy  
100 in the office of any delegate who shall be a mem-  
101 ber of the same party as the delegate vacating  
102 the office. The convention shall have power to ap-  
103 point such officers, employees and assistants as  
104 it deems necessary and to fix their compensation;  
105 to provide for the printing and distribution of its  
106 documents, journals and proceedings; to explain  
107 and disseminate information about the proposed  
108 constitution and to complete the business of the  
109 convention in an orderly manner. Each delegate  
110 shall receive for his services compensation pro-  
111 vided by law.

112 No proposed constitution or amendment adopted  
113 by such convention shall be submitted to the  
114 electors for approval as hereinafter provided un-  
115 less by the assent of a majority of all the delegates  
116 elected to and serving in the convention, with the  
117 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 bor-

row 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.

*Following is statement of the style and form changes made by the committee on style and drafting from the document as referred to said committee (see above, page 3210) to the document as reported by said committee (see above, page 3214):*

arti- cle	sec- tion	changes
I	2	After "because of" strike out "race, color, religion, or national origin" and insert "religion, race, color or national origin".
II	6	After "such election or" insert "electors who are".
III	5	Combine both paragraphs into one.
IV	4	First paragraph, first sentence, after "which it is combined" insert a comma and strike out "upon the effective date of the annexation or merger,"; and in the second sentence, after the first "the" insert "district or"; and after "determined by" strike out "said" and insert "such".
	6	Last paragraph, after "by the commission, and" strike out "may" (in the amendment) and insert "shall".
	12	(In the amendment) after "compensation and" strike out "expenses" and insert "expense allowances"; and after "changes in" strike out "salary or expenses" and insert "compensation or expense allowances"; and after "commence their" strike out "term" and insert "terms".
V	4	Section has been split into 2 sections and reversed in order. The balance of the article has been renumbered.
	25	Renumbered to Sec. 26. First paragraph, after "resignation" strike out the comma; and after "THE ELECTED attorney general" strike out the comma; and in the second paragraph, after "IN" strike out "THE".
	28	Renumbered to Sec. 29. Last paragraph, (in the amendment), after "court" strike out "of the state".
VI	8	After "lines and as" (in the amendment) strike out "near" and insert "nearly"; and after "equal population, as" (in the amendment) strike out "prescribed" and insert "provided".
	26	First paragraph, after "justice of the peace" strike out "shall be" and insert "are".
VII	24	First paragraph, after "own" strike out "and" and insert "or".
	25	Last sentence, after "sell any" strike out "such".
	28	First paragraph, after "two or more counties," strike out "cities, villages, townships or districts," and insert "townships, cities, villages or districts,".
	29	First sentence, after "places of any county," strike out "city, village or township" and insert "township, city or village"; and after "authority of the county," strike out "city, village or township" and insert "township, city or village"; and after "franchise from the" strike out "city, village or township" and insert "township, city or village". Second sentence, after "right of all counties," strike out "cities, villages and townships" and insert "townships, cities and villages".
	30	After "granted by any" strike out "city, village or township" and insert "township, city or village".
	33	Renumbered to Sec. 34. After "concerning" strike out "cities, villages, counties and townships" and insert "counties, townships, cities and villages". (This section had pre-

VIII	2	After "discrimination as to" strike out "race, creed, religion, color or national origin" and insert "religion, creed, race, color or national origin".
IX	4	(In the amendment) after "occupied by" strike out "a"; and after "educational" strike out "organization" and insert "organizations".
	6	First paragraph, at the beginning of the third sentence strike out "The" and insert "These"; and after "limitations" strike out "established by this constitution or by county vote"; and after "constitution" insert a comma.
		Second paragraph, after "charter township" strike out "or" and insert a comma; and after "charter" strike out "or other" (in the amendment); and after "authority" insert "or other authority,".
	10	After "assistance to" strike out "cities, villages and townships" and insert "townships, cities and villages".
	11	Section 11 has been rewritten to conform to other language in finance article. Meaning has not been changed.
	16	Third paragraph, after "28" strike out the comma and insert "of" and after "X" strike out the comma.
		Seventh paragraph, after "28" strike out the comma and insert "of".
X	1	Second sentence (in the amendment) after "every woman" strike out the comma; and after "marriage" strike out the comma; and after "may be dealt with" insert "and disposed of".
	2	The sentence, "Compensation shall be determined in proceedings in a court of record," has been added in lieu of the floor amendment.
XI	6-14	Section numbers 6, 7, 8, 9, 10, 11 and 12 stricken and Sec. 13 renumbered to Sec. 6, Sec. 14 renumbered to Sec. 7.
	7	Old Sec. 7 (paragraph 5 of new section 5), strike out "partisan, racial or religious" and insert "religious, racial or partisan".
	8	Last sentence of old section 8 (paragraph 6 of new section 5), has been moved to second sentence; after "serving in each house, reject" strike out the comma; and in the next sentence, after "CLASSES OF EMPLOYEES" (in the amendment) insert "affected by the increases".
	13	First sentence of old section 13 (new section 6, in the amendment), after "otherwise provided by charter" insert a comma.
	15	Old section 15 transferred to local government article. (section 33 of article VII.)
XII	2	Paragraph 4, first sentence, after "question," strike out "the proposed amendment" and insert "it".
	3	Second paragraph, second sentence, after "vacating the office" insert a period and strike out "if the legislature provides for partisan election of delegates.".
Schedule		After "FOLLOWING SCHEDULE" strike out "IS" and insert "and temporary provisions are"; and after "PERIOD AS" strike out "ITS PROVISIONS REQUIRE" and insert "are thereby required".
	6	Section 6 has been changed somewhat but meaning unchanged; a sentence (not a paragraph) has been added at end of section, incorporating the floor amendment, which sentence reads as follows: "The legislature

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.
Blandford	Heideman
Bledsoe	Higgs
Bonisteel	Hood
Boothby	Howes
<b>Bowens</b>	Hoxie
Bradley	Hubbs
Brake	Hutchinson
Brown, G. E.	Iverson
Brown, T. S.	Jones
Buback	Judd, Mrs.
Butler, Mrs.	Karn
Conklin, Mrs.	Kelsey
Cudlip	Kirk, S.
Cushman, Mrs.	Knirk, B.
Danhof	Koeze, Mrs.
Dehnke	Krolkowski
Dell	Kuhn
DeVries	Lawrence
Donnelly, Miss	Lebrand
Doty, Dean	Leppien
Doty, Donald	Lesinski
Douglas	Liberato
Downs	Madar
Durst	Mahinske
Elliott, A. G.	Martin
Elliott, Mrs. Daisy	McAllister
Erickson	McCauley
Everett	McGowan, Miss
Farnsworth	McLogan
Faxon	Millard
Figy	Mosier
Finch	Murphy
Follo	Nisbet
Ford	Nord
Gadola	Norris
Garvin	Ostrow

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  
Gadola  
Goebel

Perras  
Plank  
Pollock

Woolfenden  
Yeager

#### Nays—43

Austin  
Baginski  
Barthwell  
Binkowski  
Bledsoe  
**Bowens**  
Bradley  
Brown, T. S.  
Buback  
Douglas  
Downs  
Elliott, Mrs. Daisy  
Faxon  
Ford  
Garvin

Greene  
Hart, Miss  
Hatcher, Mrs.  
Hood  
Jones  
Kelsey  
Krolikowski  
Leibrand  
Lesinski  
Liberato  
Madar  
Mahinske  
McAllister  
Murphy

Nord  
Norris  
Ostrow  
Pellow  
Perlich  
Sablich  
Shanahan  
Snyder  
Stopczynski  
Suzore  
Walker  
Wilkowski  
Young  
Youngblood

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. VANDUSEN: 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.

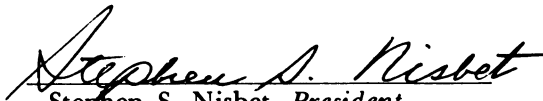
Sec. 14. The legislature by a vote of two-thirds of the members elected to and serving in each house may provide that the state may borrow money and may pledge its full faith and credit for refunding any bonds issued by the Mackinac Bridge Authority and at the time of refunding the Mackinac Bridge Authority 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, *President*

  
Fred I. Chase, *Secretary*



[ADDRESS TO THE PEOPLE]

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***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

into conformity with the new document and provides a method for determining the possible inability of the state's chief executive to serve.

The new language, "conviction of the governor on" impeachment, reflects the convention's judgment that a person serving as governor should be permitted to continue in office until impeachment proceedings have been concluded by either acquittal or conviction.

The line of succession to the governorship continues in the same order as the present constitution, except for the deletion of "state treasurer" and "auditor general" who become appointive rather than elective officers under this revised constitution. The matter of further succession, after the three elective state officers, is left to legislative determination.

The phrase "be governor" is substituted for "act as governor" to remove any possible doubt as to the status of one who succeeds to the office in the event of a vacancy. Deleted in its entirety as unnecessary is a sentence in the present Sec. 16 regarding the governor's status while at the head of a military force outside the state.

The fourth paragraph is new language which provides that the inability of a person to serve as governor may be determined by a majority vote of the supreme court. The court would be empowered to act only upon a joint request for such determination from the president pro tempore of the state senate and the speaker of the house of representatives. The supreme court is also given authority to determine when the inability ceases.

#### **Same; salary.**

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.*

This is a revision of Sec. 18, Article VI, of the present constitution. It clarifies the previous language and directs the legislature to provide compensation equal to that of the governor to any state officer acting in the capacity of governor.

#### **Highway commission.**

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.*

This is a new section establishing a bipartisan state highway commission which will administer the state highway department and have control and jurisdiction over state highways and associated facilities as well as such other public works of the state authorized by law.

No more than two of the four-member commission may belong to the same political party. They are to be appointed by the governor, with advice and consent of the senate, for four-year overlapping terms.

The commission is to appoint a state highway director to be the principal executive officer of the department. He is to be a competent highway engineer and administrator.

#### **Civil rights 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.*

This is a new section establishing an eight-member bipartisan civil rights commission to be named by the governor, with advice and consent of the senate, for four-year staggered terms. The commission is given powers and duties, as prescribed by law, to investigate instances of alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by this constitution and law; and to secure the equal protection of such rights without discrimination.

The legislature is directed to provide an annual appropriation for the effective operation of the commission whose powers are enumerated in the second paragraph.

Nothing contained in the section is to be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of the state. Appeals from final orders of the commission shall be tried anew before the circuit court having jurisdiction.

## Article VI

### JUDICIAL BRANCH

#### Judicial power.

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.

This is a revision of Sec. 1, Article VII, of the present constitution. It provides three basic changes in the existing state judicial branch:

1. It creates a "court of justice", incorporating the concept that the state has a single court with several divisions, each devoting its attention to a certain level of judicial administration.

2. It creates an intermediate court of appeals between the circuit courts and the supreme court. Such a court would share part of the present work load of the supreme court and becomes necessary, it is believed, because of a mandate in Article I of this new document which grants an appeal as a matter of right in criminal cases.

3. It removes the constitutional status of the justice of the peace system and enables the legislature to create a flexible and modern local court of limited jurisdiction to meet the differing needs of large and small counties and communities.

#### THE SUPREME COURT

##### Supreme court; justices; election; term.

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.

This is a revision of Sec. 2, Article VII, of the present constitution. It incorporates these changes:

1. Provides for an eventual seven-member supreme court. The present statutory level of eight justices would be reduced to seven with the death, retirement or resignation of one of the incumbent justices. (See Schedule and Temporary Provisions.)

2. Eliminates a present provision that the Chief Justice "be chosen by the electors of the state." Sec. 3 of this Article provides for the election of the Chief Justice by members of the court.