Michigan Constitutional Convention of 1961
Committee Proposal 94a
Const 1963, Art 6, § 15

Relevant Material From the Constitutional Convention Record

Cross-Reference and Indices . . . . . pp. 3436, 3452, 3467

First Reading . . . . . pp. 757, 1380-1387, 1393-1428, 1431-1439, 1452-1463, 2191

Second Reading . . . . . pp. 2677-2686

Draft Constitution (Art 6, § 15) . . . . . pp. 3047-3075 (p. 3061)

Third Reading, Article-by-Article . . . . . pp. 3138-3140

Draft Constitution (Art 6, § 15) . . . . . pp. 3215-3237 (p. 3226)

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

Adopted Constitution (Art 6, § 15) . . . . . pp. 3319-3353 (p. 3336)

Address to the People . . . . . p. 3387

Overview of the Constitutional Convention Process

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

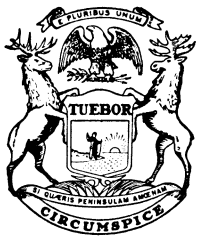
The convention used ALL CAPS to denote added material and [brackets] to denote removed material.

State of Michigan

CONSTITUTIONAL CONVENTION

1961

OFFICIAL RECORD



FRED I. CHASE
Secretary of the Convention

AUSTIN C. KNAPP
Editor

LYNN M. NETHAWAY
Associate Editor

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

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

* Created by the committee on style and drafting.

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

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93. A proposal pertaining to the circuit court. A substitute for sections 8, 9, 10 and 11 of article VII.
- For text as offered and reasons 1355
- For minority reports and reasons 1356
- As referred to style and drafting 1393
- As reported by style and drafting 2675
- As rereferred to style and drafting 2677

Feb. 2, reported by judicial branch; referred to committee of the whole 757
Feb. 28, read first time; sections a, b, c, d considered; sections a, b, d amended, passed; section c amended, postponed by committee of the whole 1355-1372
Mar. 1, section c considered, amended, passed; committee proposal as amended considered, amended, passed by committee of the whole 1374-1380
Mar. 1, reported by committee of the whole with 6 amendments; 4 amendments concurred in; referred to style and drafting 1387-1393
Apr. 6, reported by style and drafting (Report 55); placed on order of second reading 2191
Apr. 23, read second time; amended, passed; rereferred to style and drafting 2675-2677

94. A proposal pertaining to the probate court. A substitute for sections 13 and 14 of article VII.
- For text as offered and reasons 1380
- For minority report and reasons 1381
- As referred to style and drafting 1463
- As reported by style and drafting 2677
- As rereferred to style and drafting 2686

Feb. 2, reported by judicial branch; referred to committee of the whole 757
Mar. 1, read first time; section a considered by committee of the whole 1380-1387, 1393-1404
Mar. 2, section a considered, amended by committee of the whole 1405-1428
Mar. 5, section a, b considered, passed; committee proposal as amended considered, passed by committee of the whole 1431-1440
Mar. 5, reported by committee of the whole with 3 amendments; consideration postponed until Mar. 6 1452
Mar. 6, report of committee of the whole considered; 1 amendment concurred in; amended; referred to style and drafting 1453-1463
Apr. 6, reported by style and drafting (Report 56); placed on order of second reading 2191
Apr. 23, read second time; amended, passed; rereferred to style and drafting 2677-2686

95. A proposal pertaining to appeals from administrative tribunals. Adds a new section to article VII.
- For text as offered and reasons 1440
- As referred to style and drafting 1487
- As reported by style and drafting 2712
- As rereferred to style and drafting 2720

Feb. 2, reported by judicial branch; referred to committee of the whole 757
Mar. 5, read first time; considered, amended by committee of the whole 1440-1452
Mar. 6, considered, passed by committe of the whole 1463-1478
Mar. 6, reported by committee of the whole with 2 amendments; amendments concurred in; referred to style and drafting 1483-1487
Apr. 6, reported by style and drafting (Report 57); placed on order of second reading 2191
Apr. 23, read second time; amended, passed; rereferred to style and drafting 2712-2720

96. A proposal pertaining to general and special provisions relative to the courts of the state. A substitute for sections 17, 19, 20 and 23 of article VII.
- For text as offered and reasons 1478
- For minority reports and reasons 1480
- For committee amendment and reasons 1554
- For minority report and reasons to committee amendment 1554
- As referred to style and drafting 1632
- As reported by style and drafting 2690
- As rereferred to style and drafting 2711

Feb. 2, reported by judicial branch; referred to committee of the whole 757

Committee Proposal No. — **Page**

96: Cont'd.
Mar. 6, read first time; section a considered, amended by committee of the whole 1478-1483
Mar. 7, sections a, b, c, d considered; section a amended, passed; sections b, c, d passed by committee of the whole 1494-1517
Mar. 8, sections e, f, g, h, i, j, k considered; sections e, h, i, j passed; sections f, g, k amended, passed by committee of the whole 1519-1551
Mar. 9, sections l, m offered; section l postponed; section m amended, adopted by committee of the whole 1554-1564
Mar. 13, section l considered, adopted; committee proposal as amended considered, passed by committee of the whole 1609-1611, 1621
Mar. 13, reported by committee of the whole with 8 amendments; amendments concurred in; referred to style and drafting 1622-1632
Apr. 6, reported by style and drafting (Report 58); placed on order of second reading 2191
Apr. 23, read second time; amended, passed; rereferred to style and drafting 2690-2712

97. A proposal to amend article XI by adding a new section pertaining to the arts and recreation.
- For text as offered and reasons 1233
- As referred to style and drafting 1240

Feb. 2, reported by education; referred to committee of the whole 757
Feb. 22, read first time; considered, amended, passed by committee of the whole 1233-1240
Feb. 22, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting 1240
(Note: The entire content stricken.)

98. A proposal pertaining to the educational institutions of the state. Replaces sections 3, 4, 5, 7, 8, 10 and 16 of article XI.
- For text as offered and reasons 1135
- For minority report and reasons 1136
- As referred to style and drafting 1206
- As reported by style and drafting 2563
- As rereferred to style and drafting 2572

Feb. 2, reported by education; referred to committee of the whole 757
Feb. 16, read first time; sections a, b considered; section a passed; section b amended by committee of the whole 1135-1145
Feb. 19, sections b, c, d considered; section b amended, passed; section c passed by committee of the whole 1147-1155, 1170-1173
Feb. 20, section d considered, passed; committee proposal as amended considered; sections a, c, d amended; passed by committee of the whole 1175-1188
Feb. 20, reported by committee of the whole with 5 amendments; amendments concurred in; consideration postponed to Feb. 21 1199
Feb. 21, considered; referred to style and drafting 1202-1206
Mar. 27, reported by style and drafting (Report 51); placed on order of second reading 1891
Apr. 18, read second time; amended, passed; rereferred to style and drafting 2563-2572

99. A proposal to provide that the legislature may provide for a jury of less than 12 in civil cases. Amends article V, section 27.
- For text as offered and reasons 2288
- As referred to style and drafting 2288
- As reported by style and drafting 2961
- As rereferred to style and drafting 2961

Feb. 2, reported by legislative powers; referred to committee of the whole 757
Apr. 11, read first time; considered, passed by committee of the whole 2288-2290
Apr. 11, reported by committee of the whole without amendment; referred to style and drafting 2297
Apr. 23, reported by style and drafting (Report 84); placed on order of second reading 2670
Apr. 30, read second time; passed; rereferred to style and drafting 2961

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Article VI, Section 12: Cont'd.
Aug. 1, considered; adopted 3291-3301
For text as adopted 3336
For text, and comments in address to the people .. 3386

Section 13. Circuit courts; jurisdiction, writs, supervisory control over inferior courts. (Committee Proposal 93c)
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
Aug. 1, considered; adopted 3291-3301
For text as adopted 3336
For text, and comments in address to the people .. 3386

Section 14. County clerks; duties, vacancies; prosecuting attorneys, vacancies. (Committee Proposal 93d)
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
Aug. 1, considered; adopted 3291-3301
For text as adopted 3336
For text, and comments in address to the people .. 3386

Section 15. Probate courts; districts, jurisdiction. (Committee Proposal 94a)
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
Aug. 1, considered; adopted 3291-3301
For text as adopted 3336
For text, and comments in address to the people .. 3387

Section 16. Probate judges; nomination, election, terms. (Committee Proposal 94b)
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
Aug. 1, considered; adopted 3291-3301
For text as adopted 3336
For text, and comments in address to the people .. 3387

Section 17. Judicial salaries and fees. (Committee Proposal 96a[1])
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
Aug. 1, considered; adopted 3291-3301
For text as adopted 3336
For text, and comments in address to the people .. 3387

Section 18. Salaries; uniformity, changes during term. Circuit judges, additional salary from county. (Committee Proposal 96g)
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
Aug. 1, considered; adopted 3291-3301
For text as adopted 3336
For text, and comments in address to the people .. 3387

Section 19. Courts of record; seal, qualifications of judges. (Committee Proposal 96a)
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
Aug. 1, considered; adopted 3291-3301
For text as adopted 3337
For text, and comments in address to the people .. 3387

Section 20. Removal of domicile of judge. (Committee Proposal 96b)
May 7, reported; placed on order of third reading 3045

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Article VI, Section 20: Cont'd.
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
Aug. 1, considered; adopted 3291-3301
For text as adopted 3337
For text, and comments in address to the people .. 3388

Section 21. Ineligibility for other office. (Committee Proposal 96c)
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
Aug. 1, considered; adopted 3291-3301
For text as adopted 3337
For text, and comments in address to the people .. 3388

Section 22. Candidacy of incumbent judges, affidavits. (Committee Proposal 96l)
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
Aug. 1, considered; adopted 3291-3301
For text as adopted 3337
For text, and comments in address to the people .. 3388

Section 23. Judges of courts of record, filling of vacancies. (Committee Proposal 96d)
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
Aug. 1, considered; adopted 3291-3301
For text as adopted 3337
For text, and comments in address to the people .. 3388

Section 24. Judges; designation of elected incumbents on ballot. (Committee Proposal 96e)
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
Aug. 1, considered; adopted 3291-3301
For text as adopted 3337
For text, and comments in address to the people .. 3388

Section 25. Removal of judges from office. (Committee Proposal 96h)
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
Aug. 1, considered; adopted 3291-3301
For text as adopted 3337
For text, and comments in address to the people .. 3388

Section 26. Circuit court commissioners and justices of the peace, abolition; courts of limited jurisdiction. Present statutory courts. (Committee Proposal 96i)
May 7, reported; placed on order of third reading 3045
May 8, read third time; amended; 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
Aug. 1, considered; adopted 3291-3301
For text as adopted 3337
For text, and comments in address to the people .. 3388

Section 27. Power of appointment to public office. (Committee Proposal 96n)
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
Aug. 1, considered; adopted 3291-3301
For text as adopted 3337
For text, and comments in address to the people .. 3389

Mr. Danhof, for the committee on judicial branch, introduced **Committee Proposal 90,** A proposal pertaining to the judicial branch. A substitute for section 1 of article VII;
with the recommendation that it pass.

Robert J. Danhof, chairman.

For Committee Proposal 90 and the reasons submitted in support thereof, see below under date of February 22.

Mr. Danhof, for the committee on judicial branch, introduced **Committee Proposal 91,** A proposal pertaining to the supreme court. A substitute for sections 2, 4, 5, 6 and 7 of article VII;
with the recommendation that it pass.

Robert J. Danhof, chairman.

For Committee Proposal 91 and the reasons submitted in support thereof, see below under date of February 22.

Mr. Danhof, for the committee on judicial branch, introduced **Committee Proposal 92,** A proposal pertaining to a court of appeals. Amends article VII;
with the recommendation that it pass.

Robert J. Danhof, chairman.

For Committee Proposal 92 and the reasons submitted in support thereof, see below under date of March 13.

Mr. Danhof, for the committee on judicial branch, introduced **Committee Proposal 93,** A proposal pertaining to the circuit court. A substitute for sections 8, 9, 10 and 11 of article VII;
with the recommendation that it pass.

Robert J. Danhof, chairman.

For Committee Proposal 93 and the reasons submitted in support thereof, see below under date of February 28.

Mr. Danhof, for the committee on judicial branch, introduced **Committee Proposal 94,** A proposal pertaining to the probate court. A substitute for sections 13 and 14 of article VII;
with the recommendation that it pass.

Robert J. Danhof, chairman.

For Committee Proposal 94 and the reasons submitted in support thereof, see below under date of March 1.

Mr. Danhof, for the committee on judicial branch, introduced **Committee Proposal 95,** A proposal pertaining to appeals from administrative tribunals. Adds a new section to article VII;
with the recommendation that it pass.

Robert J. Danhof, chairman.

For Committee Proposal 95 and the reasons submitted in support thereof, see below under date of March 5.

Mr. Danhof, for the committee on judicial branch, introduced **Committee Proposal 96,** A proposal pertaining to general and special provisions relative to the courts of the state. A substitute for sections 17, 19, 20 and 23 of article VII;
with the recommendation that it pass.

Robert J. Danhof, chairman.

For Committee Proposal 96 and the reasons submitted in support thereof, see below under date of March 6.

Mr. Bentley, for the committee on education, introduced **Committee Proposal 97,** A proposal to amend article XI by adding a new section pertaining to the arts and recreation;
with the recommendation that it pass.

Alvin M. Bentley, chairman.

For Committee Proposal 97 and the reasons submitted in support thereof, see below under date of February 22.

Mr. Bentley, for the committee on education, introduced **Committee Proposal 98,** A proposal pertaining to the educational institutions of the state. Replaces sections 3, 4, 5, 7, 8, 10 and 16 of article XI;
with the recommendation that it pass.

Alvin M. Bentley, chairman.

For Committee Proposal 98 and the reasons submitted in support thereof, see below under date of February 16.

Mr. Hoxie, for the committee on legislative powers, introduced **Committee Proposal 99,** A proposal to provide that the legislature may provide for a jury of less than 12 in civil cases. Amends article V, section 27;
with the recommendation that it pass.

T. Jefferson Hoxie, chairman.

For Committee Proposal 99 and the reasons submitted in support thereof, see below under date of April 11.

Mr. Hoxie, for the committee on legislative powers, introduced **Committee Proposal 100,** A proposal to provide that the legislature shall not authorize lotteries or the sale of lottery tickets. Retains article V, section 33;
with the recommendation that it pass.

T. Jefferson Hoxie, chairman.

For Committee Proposal 100 and the reasons submitted in support thereof, see below under date of April 11.

Mr. Hoxie, for the committee on legislative powers, introduced **Committee Proposal 101,** A proposal to provide that the state shall not engage in internal improvements except in certain specified areas and except that the legislature may empower local subdivisions to act in the area of internal improvements. Amends article X, section 14;
with the recommendation that it pass.

T. Jefferson Hoxie, chairman.

For Committee Proposal 101 and the reasons submitted in support thereof, see below under date of April 11.

Mr. Hoxie, for the committee on legislative powers, introduced **Committee Proposal 102,** A proposal to provide that each house of the legislature may choose its officers, determine its rules, judge qualifications of its members and other matters. Amends article V, section 15;
with the recommendation that it pass.

T. Jefferson Hoxie, chairman.

For Committee Proposal 102 and the reasons submitted in support thereof, see below under date of April 12.

Mr. Hoxie, for the committee on legislative powers, introduced **Committee Proposal 103,** A proposal to provide that sessions of the legislature be open and that a concurrent resolution is necessary for adjournment for more than 3 days. Amends article V, section 18;
with the recommendation that it pass.

T. Jefferson Hoxie, chairman.

For Committee Proposal 103 and the reasons submitted in support thereof, see below under date of April 11.

Mr. Hoxie, for the committee on legislative powers, introduced **Committee Proposal 104,** A proposal to provide for 3 readings of a bill before passage and for passage of bills by a majority of the members elected. Retains article V, section 23;
with the recommendation that it pass.

T. Jefferson Hoxie, chairman.

For Committee Proposal 104 and the reasons submitted in support thereof, see below under date of April 11.

Mr. Hoxie, for the committee on legislative powers, introduced **Committee Proposal 105,** A proposal to provide that bills must

self to the merits of the various contentions, but I would like to introduce a note of caution among the delegates, both lawyers and nonlawyers. We are dealing with the courts, and we are dealing with the courts in the public eye, and it seems to me that we ought to approach this question with due care and caution. We call a judge "His Honor" to remind us of our own honor, and I don't think we ought to introduce in an inartful formulation some of the points that have been made in the discussion both with regard to the circuit judges and the supreme court judges.

The rights of the people are directly related here to the integrity of the bench, and I think that when we discuss this, while the courts are not immune to first amendment criticism — speech and press — certainly in a sovereign body as this we have to make a searching inquiry with regard to the function of the courts and all the accoutrements of the courts. I seem to detect in the trend of the discussion on this judicial article a certain amount of disrespect which I think is unwarranted. I think it is possible to criticize in such a way that we elevate the thing we criticize and not deprecate it, and I think that ought to be borne in mind by all the delegates.

CHAIRMAN VAN DUSEN: Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen, had I known in advance what some of these statements would have been, I certainly would not have offered this amendment, because the statements that have been made have done more damage than the amendment can do good if it carries. The only argument that has been urged against the appointment by the judge of the circuit court reporter is that through the influence of the judge the reporter will not correctly report the case. I can't dispute the experience that other attorneys say they have had in this field. I am shocked by what they say. When one gets to where he can't argue about a thing, a Methodist trained person simply testifies, and I testify. This means that the judge and the reporter are intellectually dishonest. I have never known such a judge and I have never known such a reporter. I think the amendment should be adopted.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Brake. The question has been divided. The first portion of the question is that dealing with the court reporter. The secretary will read that portion of the amendment.

SECRETARY CHASE: Mr. Brake's amendment as divided would provide for the appointment by the judge of the court reporter, so the amendment would be as follows:

1. Amend page 2, line 15, after "county clerk" by striking out "or" and inserting a comma; and in line 16, after "prosecuting attorney" by inserting "or court reporter"; so the language would read, "The judges of the circuit courts may fill any vacancy in the office of county clerk, prosecuting attorney or court reporter. . . ."

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: I can only state, Mr. Chairman, that I would echo the remarks made by Delegate Norris. I think they are most apropos. And also those of Mr. Brake. I think the discussion has developed that it best be left the way it is, that while the system may have certain disadvantages, it is better than to write them into the constitution. I would urge the defeat of the amendment.

CHAIRMAN VAN DUSEN: The question is on the portion of the amendment offered by Mr. Brake which the secretary has just read. Those in favor of the amendment will say aye. Those opposed will say no.

The Chair would rule that the amendment does not prevail.

MR. BRAKE: Division.

CHAIRMAN VAN DUSEN: A division has been called for. Is the request supported? It is supported. Those in favor of the amendment 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 adoption of the amendment relative to the appointment of a court reporter by the circuit judge, the yeas are 55; the nays are 60.

CHAIRMAN VAN DUSEN: The amendment is not adopted.

The second portion of the amendment offered by Mr. Brake deals with the appointment of the friend of the court by the circuit judge, and the secretary will read that portion of the amendment.

SECRETARY CHASE: Mr. Brake's amendment now is:

1. Amend page 2, line 15, after "county clerk" by striking out "or" and inserting a comma; and in line 16, after "prosecuting attorney" by inserting "or friend of the court"; so that the language will then read:

> The judges of the circuit courts may fill any vacancy in the office of county clerk, prosecuting attorney or friend of the court within their respective jurisdictions, but shall not exercise any other power of appointment to public office.

CHAIRMAN VAN DUSEN: On the amendment offered by Mr. Brake, Mr. Brake requests a division. Is the demand supported? It is supported. Those in favor of the amendment as so read by the secretary 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 adoption of the amendment relative to the appointment of the friend of the court, the yeas are 64; the nays are 52.

CHAIRMAN VAN DUSEN: The amendment is adopted. Are there any further amendments to the body of Committee Proposal 93? If not, it will pass.

Committee Proposal 93, as amended, is passed, and the secretary will read Committee Proposal 94.

SECRETARY CHASE: From the committee on judicial branch, by Mr. Danhof, chairman, **Committee Proposal 94,** A proposal pertaining to the probate court. A substitute for sections 13 and 14 of article VII.

Following is Committee Proposal 94 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 EACH COUNTY ORGANIZED FOR JUDICIAL PURPOSES, THERE SHALL BE A PROBATE COURT. THE LEGISLATURE MAY COMBINE 1 OR MORE COUNTIES INTO PROBATE DISTRICTS, OR COMBINE THE OFFICE OF PROBATE JUDGE WITH ANY JUDICIAL OFFICE INFERIOR THERETO IN ANY COUNTY WITH LESS THAN 25,000 POPULATION WITH SUPPLEMENTAL SALARY AS PROVIDED BY LAW, AND SHALL DO SO ON RECOMMENDATION AND REPORT OF THE SUPREME COURT. THE JURISDICTION, POWERS AND DUTIES OF SUCH COURTS AND OF THE JUDGES THEREOF SHALL BE PRESCRIBED BY LAW. THEY SHALL ALSO HAVE ORIGINAL JURISDICTION IN ALL CASES OF JUVENILE DELINQUENTS AND DEPENDENTS, EXCEPT AS OTHERWISE PROVIDED BY LAW.

Sec. b. JUDGES OF PROBATE SHALL BE NOMINATED AND ELECTED AT NONPARTISAN ELECTIONS IN THE COUNTIES OR THE PROBATE DISTRICT IN WHICH THEY RESIDE AND SHALL HOLD OFFICE FOR A PERIOD OF 6 YEARS AND UNTIL THEIR SUCCESSORS ARE ELECTED AND QUALIFIED. IN MULTIJUDGE COUNTIES OR DISTRICTS THE LEGISLATURE SHALL PROVIDE BY LAW FOR STAGGERED TERMS.

Mr. Danhof, chairman of the committee on judicial branch, submits the following reasons in support of Committee Proposal 94:

During the first 3 months of our committee work we had the testimony and advice of all the members of the supreme court, of circuit and probate judges, state bar officers and lawyers and officers of local bar associations and members of the general public. The plan of operation of our circuit and probate courts we found met the approval generally of all persons and groups who appeared before us.

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

Sec. a. We found in many counties of the state that the work load of a probate judge was small and required but a portion of his time. We also learned that the cost to the taxpayer in those counties was by reason of small taxing areas much larger in proportion than in the counties of larger population and taxing power. We have therefore authorized the legislature, and required the legislature on recommendation of the supreme court, either to unite counties into probate districts, somewhat comparable to our circuit courts, or combine the office of probate judge with any judicial office inferior thereto in any county with less than 25,000 population. We believe either alternative will tend toward a better administration of the work of such courts and at the same time reduce the expense of operation.

Sec. b. It will be observed that the committee left with the probate courts, original jurisdiction in all cases of delinquent and dependent juveniles. But the committee felt that the legislature should have power to change this jurisdiction, should it sometime in the future create some division of a county court that might take over all juvenile work, such as a family or domestic relations court.

Following is the minority report to Committee Proposal 94 as offered and the reasons submitted in support thereof:

Messrs. Ford, Garvin, Bledsoe, Ostrow, Krolikowski and Barthwell, a minority of the committee on judicial branch, submit the following minority report to Committee Proposal 94:

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

Amend page 1, line 14, by striking "EXCEPT AS OTHERWISE PROVIDED BY LAW".

Messrs. Ford, Garvin, Bledsoe, Ostrow, Krolikowski and Barthwell, a minority of the committee on judicial branch, submit the following reasons in support of the foregoing minority report, which accompanied Committee Proposal 94:

The proponents of this minority report believe that the phrase recommended to be deleted from this section threatens the present constitutional status of the probate court's jurisdiction over juvenile delinquents and dependent persons.

We believe that the juvenile function should be retained in a court separate and apart from a general trial court, such as the circuit court as well as other courts exercising criminal jurisdiction.

In its report to the people of the 1907 convention the committee on submission and address to the people indicated that the phrase "and they shall also have original jurisdiction in all cases of juvenile delinquents and dependents" was added to the 1908 constitution to make the powers conferred by law on probate courts in juvenile cases constitutional powers.

The proponents of this minority report have been impressed by juvenile and probate judges who have appeared before the committee on judicial branch and recommended retention of this constitutional power in the probate courts.

CHAIRMAN VAN DUSEN: On section a of Committee Proposal 94, the Chair recognizes the chairman of the committee on judicial branch, Mr. Danhof.

MR. DANHOF: Mr. Chairman, members of the committee, we now move to the probate courts, having finished with the circuit court. And for an explanation of the committee report in regard to section a, I should like to call on the delegate from Bay City, Mr. Higgs.

CHAIRMAN VAN DUSEN: Mr. Higgs.

MR. HIGGS: Mr. Chairman and members of the committee, in dealing with the probate courts, I would like to call your attention to the fact that in Michigan we have provided in our constitutions of 1835 and 1850 and 1908 for a probate court. However, this is not necessary and not the practice in most of the states of the United States. Actually, only Alabama, Arkansas, Delaware, Georgia, Idaho, Kansas, Maryland, Minnesota, New Mexico, Ohio, Pennsylvania and Wisconsin also contain a general provision providing for a probate court in their constitution. That is 13 other states. There are 6 other states which vest the power of the probate court as we know it in Michigan in their general trial court similar to the circuit court as we have in Michigan.

With that general background, as far as providing for the probate court is concerned, the committee after deliberation and discussion as to the advisability of retaining this court decided upon keeping the same provision with the changes that we have recommended. Now, these changes include a provision making it possible for the combination of one or more counties into probate districts as one alternative; and as a second alternative, the possibility of combining the office of probate judge with any judicial office inferior thereto in any county with less than 25,000 population, with supplemental salary as provided by law, and this shall be done upon recommendation and support of the supreme court.

With regard to the possibility of combining probate courts of the counties into probate districts, I would like to call attention to the fact that in the recent poll of the lawyers of the bar, this question of the advisability of doing this was submitted, and the questionnaires returned indicated the following vote: 2,986 yes and 615 no. Now, the reason for combining the probate courts into districts is simply a matter of economics, a matter that in the very small counties there appears to be not sufficient business in the probate area to occupy the services of a judge full time. We have in Michigan 5 counties that are under the population of 5,000. We have 13 counties that are between 5,000 and 10,000 in population. All in all we have in Michigan 39 counties that have less than 25,000 population. One of the most important aspects of the business of the probate court is the handling of juveniles, both dependent and neglected juveniles and also juvenile delinquents. In both of these areas the services of trained social workers are highly desirable. In order to efficiently and economically administer this function of the probate court, it is considered that it might be desirable in counties of a small population to combine counties into probate districts.

As an alternative, and on the suggestion of a probate judge from Gaylord, one Boyd Baird, who last year was president of the top of Michigan probate judges association, we also included a provision that the probate court in small counties as a optional matter might be combined with inferior courts; that is, possibly with the circuit court commissioner's court and the justice court. In appearing before our subcommittee, he indicated that it was his opinion that it would be better to have a probate judge in each county with sufficient business to occupy him full time than to have a part time judge doing this work or a judge traveling a circuit. He felt that at least as an optional basis this should be provided. Actually, with regard to this matter there are no counties, none at all, with less than 25,000 population south of the north boundary line of Muskegon county, Kent county, Montcalm, Isabella and Bay. No county south of the north line of those counties would be involved in this provision whatsoever with regard to the combining of the probate court with judicial offices inferior thereto, and actually north of that line there are 6 counties out of the 45 that would exceed that population limitation.

Now, we have made one other change which is significant. In the last sentence of the proposal we have provided that the probate courts have original jurisdiction in all cases of juvenile delinquents and dependents except as otherwise provided by law. The proviso in this particular instance is there to grant flexibility to the legislature in the future development of our court system and in particular with regard to the possibility of the development of either a children's court, a domestic relations court or what is more modernly called the family court. It is entirely possible that this function, in the discretion of the legislature, might properly be placed in another court. I would like to say that in New York, for instance, this has been done. Last November in New York a

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

complete new judicial article was adopted by a vote of 5 to 1 throughout the state, which I thought was quite tremendous. In the state of New York they have abolished a number of courts and transferred their jurisdiction to the family court. In particular, they had previous thereto a children's court, a domestic relations court, a surrogate court. They still retain the surrogate court but part of the jurisdiction of the surrogate court, all of the jurisdiction of the children's court, all of the jurisdiction of the domestic relations court and part of the jurisdiction of a number of other courts has been transferred to a new court which is called a family court.

The concept of the family court, we felt, was best developed by the legislature rather than by our committee, and accordingly it is only our purpose in making this provision to provide that flexibility. We have placed the original jurisdiction of juvenile delinquents and dependents in the probate court and it remains there until and unless and except as may be otherwise provided by the legislature.

I would like to yield the floor to questions at this time.

CHAIRMAN VAN DUSEN: Are there any questions for Mr. Higgs? Mr. Pellow.

MR. PELLOW: What do you mean, Mr. Higgs, by courts inferior thereto? In the event that this passes, are you going to combine the duties of the probate court with justice courts and so forth?

MR. HIGGS: It was not our purpose to make any combination, but merely to grant the flexibility to the legislature to make such a combination if it seemed wise in the future.

MR. PELLOW: What I mean is, by the language "inferior thereto," which courts are inferior to the probate court?

MR. HIGGS: We were thinking of the circuit court commissioner's court and courts of limited jurisdiction such as municipal courts and justice courts.

CHAIRMAN VAN DUSEN: Mr. Mahinske.

MR. MAHINSKE: Mr. Higgs, along the same lines that Mr. Pellow started to pursue here, under the prior judicial proposals we have no courts that are going to remain in existence inferior to the probate court on a county level. Now, it seems to me that it is a poor choice of wording here. If the legislature acts and it is going to create a court that will take over the functions of the probate court, it is at least creating a new court that is equal to the probate court in status or it couldn't give them more power than they are legislatively able to exert.

MR. HIGGS: Well, now you have made an assumption that we will have no courts inferior thereto, which I don't think is a valid assumption.

MR. MAHINSKE: I assume that the circuit court commissioners along with the justice courts are going to be out of existence after the 5 year period. Is this correct or not correct?

MR. HIGGS: The provision is that the powers and jurisdiction of these courts shall remain within the circuit court commissioner's court and in the justice of the peace court for a period not to exceed 5 years and shall be transferred to other courts to be established by the legislature.

MR. MAHINSKE: Yes, but which may not necessarily be inferior to the probate court. This is the point.

MR. HIGGS: I don't think we have any great pride of authorship. We have used in another section the words "courts of limited jurisdiction." Would you like that better?

MR. MAHINSKE: Well, I think this is a matter that style and drafting could polish up here. Now, down in line 14, are you prepared to discuss this "except as otherwise provided by law" or are we going to leave that to the minority report?

MR. HIGGS: We are prepared to discuss it.

MR. MAHINSKE: At this point? Would this be proper, Mr. Chairman?

CHAIRMAN VAN DUSEN: I think, Mr. Mahinske, if you could confine yourself at this point to questions relating to the committee proposal, we will deal with matters relating to the minority report as the amendments are presented.

MR. MAHINSKE: Then I have completed my remarks. Thank you.

MR. HIGGS: Thank you.

CHAIRMAN VAN DUSEN: Mr. Farnsworth.

MR. FARNSWORTH: Mr. Chairman, Mr. Higgs, I do have a question on lines 13 and 14. "They shall also have original jurisdiction in all cases of juvenile delinquents and dependents. . . ." Dependents of whom? Dependents of juvenile delinquents or do you mean neglected children?

MR. HIGGS: In the juvenile area the probate court not only has jurisdiction over juvenile delinquents but juveniles who are dependent and neglected. And that, I think, is the distinction.

MR. FARNSWORTH: That is, what you mean to say really, is neglected children rather than a dependent of a juvenile.

MR. HIGGS: Again, I don't think we have any pride in draftsmanship here. We have carried over the provision of the 1908 constitution with the proviso.

MR. FARNSWORTH: You wouldn't mean a dependent, for instance —

MR. HIGGS: I would like to yield to the committee chairman. I think he has a comment on this.

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Mr. Farnsworth, that has been interpreted to mean juvenile delinquents and juvenile dependents. This is out of the 1908 constitution. It means actually just that. It is not dependents of juveniles but the fact that, as it was worded there, jurisdiction in all cases of juvenile delinquents and juvenile dependents. That means orphans and neglected children and things along that particular line, not necessarily in the delinquency statute but by reasons of death in the family or abandonment they become in effect dependent upon the state and, therefore, the jurisdiction falls to the probate courts. This is what has been done, and this is what we carried over right from the 1908 language.

CHAIRMAN VAN DUSEN: Mr. Higgs.

MR. HIGGS: Mr. Chairman, I think I have a minute to discuss one aspect of this that should be brought to your attention. One of the considerations with regard to the Judge Baird concept of the combination of the probate court with judicial offices inferior thereto — or courts of limited jurisdiction, whichever you prefer — one of the significant aspects of this is the possibility, and again we are not making the provision, but we are granting the flexibility to the legislature that, if in their discretion they would consider using this as one step in the development of a county court, this could be done most economically.

For instance, every probate judge in the state of Michigan has at the very least a statutory salary of $5,000. This is supplemented in some counties, and for each 10,000 of population, there is a statutory increase of an additional $500. We have probate judges in Wayne county receiving up to $22,500, but in the smallest of counties, in those counties less than 25,000, their pay is anywhere from $5,000 to $6,500. Now, in a county with less than 10,000 population, there just isn't very much probate work to be done. And Judge Baird advised us that when he ran for office, he advised the people in his district that he only intended to work 2 days, and the 2 days was entirely adequate to do the business of that court. So if you were going to use a base for the development of a county court in the small areas or in the sparsely populated areas, you would have available a court the judge of which already recieves a base pay of anywhere from $5,000 to $6,500 upon which to build, and in the development of that court it was our feeling that with this base and such supplement as might be provided by law, a county court could be developed most economically and with sufficient pay so that the office would attract qualified lawyers to act.

CHAIRMAN VAN DUSEN: Mr. Plank.

MR. PLANK: Mr. Higgs, I am interested in knowing a little more about these family courts you suggested be created by the legislature. Was it your suggestion they be created in counties of less than 25,000, or above?

CHAIRMAN VAN DUSEN: Mr. Higgs.

MR. HIGGS: Well, this matter of the family courts is only involved in the last sentence and without regard to limitation of population. It is stated that they — meaning probate courts

— shall also have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law. This particular provision would, in our opinion and judgment, prohibit the establishment of a family court separate from the probate court without the proviso, and merely by adding the proviso we give the legislature the necessary flexibility in order to create a family court, which would be possibly but not necessarily entirely independent of the probate court. As the family court is constituted in other states, it would likely have a very broad jurisdiction which would include part of the powers of the circuit court.

MR. PLANK: In other words, you are saying it does not replace the probate court?

MR. HIGGS: No.

MR. PLANK: Then it would be in counties above 25,000, probably?

MR. HIGGS: The likelihood is that it would not be developed in counties anywhere near 25,000. The likelihood, in my judgment, is that it would be a court in the most highly populated areas rather than the lower.

MR. PLANK: I am a little bit concerned about your districting probate courts. I think their function is today quite successful due to the fact that they are close to the families which they have to serve, and I am wondering if you had difficulty in a given area and you had to go 2 counties away to find a probate judge, whether or not you would be serving them adequately. You may be paying the judge enough money but you may not be serving the people.

MR. HIGGS: I think many of us share your concern and this is why we left it as an entirely flexible and optional matter and why we made the other alternative, the other option. Judge Baird, for instance, reflected your concern in that same regard.

CHAIRMAN VAN DUSEN: The gentleman from Quincy, Mr. Knirk.

MR. KNIRK: Mr. Chairman, Mr. Higgs, Ray Plank was asking some of the same questions I had that I would like to ask you, and that is in regard to the probate court. Now, if you had a family court developed, would that do away with your probate court within counties of under 25,000 population?

MR. HIGGS: No, it would not. We have included the probate court as a constitutional court and it cannot be abolished.

MR. KNIRK: It cannot be abolished?

MR. HIGGS: No.

MR. KNIRK: Then will you explain to me in a little further detail "except as otherwise provided by law" in line 14. Just what is the intent there of that particular phrase?

MR. HIGGS: The intent in that particular phrase is to permit the legislature, in the development of a court system, to transfer a part of the jurisdiction of the probate court to another court. They would also be transferring to the family court part of the jurisdiction of the circuit court or it might be a division of the probate court or it might be a division of the circuit court. But we didn't feel as a committee that we should freeze into the constitution a family court. It might be desirable simply in 1, 2 or 3 or 4 counties of Michigan.

MR. KNIRK: I still don't quite understand your position there. You say that the probate court would become part of the family court? Is that what you said now?

MR. HIGGS: No. I said that the legislature in the development of a family court might conceivably make a division of the probate court to serve that function, but the probability is, if the experience in other states were to be followed, that it would be a separate and independent court; in other words, a new court, a family court separate from the probate court but would not abolish the probate court because there are many other functions that the probate court serves, many other powers and duties and jurisdiction that it has.

MR. KNIRK: I wonder, Mr. Chairman, if I might ask Stan Everett to elaborate. I see he was up on this.

CHAIRMAN VAN DUSEN: Mr. Higgs, would you like to yield to Mr. Everett for a further response?

MR. HIGGS: Yes.

CHAIRMAN VAN DUSEN: Mr. Everett.

MR. EVERETT: I think what Mr. Higgs just said, Blaque, might clear up some confusion in the laymen's minds. Historically the probate court in this and other states was set up primarily to administer the estates of those who died. In the Constitution of 1908 we simply tagged on the juvenile aspects to a court which was already concerned with things which had nothing to do with juveniles, like administration of estates, the commitment of mentally ill people, the appointment of guardians of mentally incompetent people and so on. Now, the development of the juvenile court within the framework of probate court has been very successful in most places so that this has worked quite well, although it is a rather strange combination that you have on one hand a court dealing with deceedent estates and on the other hand they are dealing with juveniles. Still it has developed rather well, and we are not suggesting that this be changed.

What we are suggesting is that there be a degree of flexibility so that as experience in other areas may dictate, if it seems more logical to either transfer the juvenile powers of that court to another court or transfer other powers to that juvenile court or create a separate juvenile court in large counties, that this can be done. Under the present constitution it cannot be done. In 1908 it was not very practical to set up a separate juvenile system and so, as I say, they just tagged it on here.

Now, in many counties there is considerable thinking, at least in very large counties, that maybe that power ought to be taken away and put someplace separate. This is a matter which is being experimented with in other states, and I don't think many of us on the committee felt today was the day to make any change in Michigan. Maybe the day will never come to make a change in Michigan, but at least the power ought to be with the legislature to make that determination at some future time. That is why, when Mr. Higgs says the probate court will go on, there will have to be a court to handle all of these other duties of the probate court whether the juvenile powers remain there or whether they don't remain there.

CHAIRMAN VAN DUSEN: Mr. Mahinske.

MR. MAHINSKE: I would like to direct this question to either Mr. Higgs or Mr. Danhof. The language on line 14 where you say "juvenile delinquents and dependents" is the existing language in the 1908 constitution, but in response to Mr. Farnsworth I think both of you made the statement that is reflected on page 2 of the reasons for Committee Proposal 94, where you say "in cases of delinquent and dependent juveniles." Now, today in the probate courts their jurisdiction as far as dependents are concerned is not restricted to juveniles. The probate court is the court that enforces the petitions on responsible relatives, petitions from, say, the welfare department where the welfare department brings the responsible relatives into court to get them to contribute to the support of the person who is on relief. Now, is this your intent, that the probate court shall have no jurisdiction over other than juvenile dependents?

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: I think what you refer to, Mr. Mahinske, is granted to the probate court by statute.

MR. MAHINSKE: But if you say in your reasons here that you are talking about juvenile dependents only now, what are you doing with the statute?

MR. DANHOF: Nothing. Because I don't think the Constitution of 1908 — I think they gave them the original jurisdiction of juvenile delinquents and juvenile dependents. Mr. Higgs might have an answer there too.

MR. MAHINSKE: I will yield to Mr. Higgs.

CHAIRMAN VAN DUSEN: Mr. Higgs.

MR. HIGGS: Mr. Mahinske, if you look at lines 11, 12 and 13, you will note that the jurisdiction, powers and duties of such courts shall be prescribed by law. Generally speaking — and I think you probably know this — the power and jurisdiction of a probate court is entirely statutory except for this one provision with regard to juvenile delinquents and dependent children.

MR. MAHINSKE: Well then, in the case of original jurisdiction, are you saying that you only want the probate courts to have original jurisdiction as to juvenile dependents?

MR. HIGGS: No. We use the words "they shall also have" in addition to the powers, duties and jurisdictions prescribed by law in lines 11, 12 and 13.

MR. MAHINSKE: But still I ask again, are you maintaining that you want the probate courts only to have original jurisdiction; in other words, constitutional jurisdiction as far as juvenile delinquents and juvenile dependents are concerned, or are you talking about all dependents?

CHAIRMAN VAN DUSEN: Mr. Higgs.

MR. HIGGS: My answer is no, it would not change the existing language one bit. This is —

MR. MAHINSKE: But Mr. Danhof just informed us that the existing situation is statutory.

MR. HIGGS: And the statute was adopted under the 1908 constitutional provision which we have not changed in any respect except where we say "except as otherwise provided by law."

MR. MAHINSKE: Then your intent here would be to give the probate court original jurisdiction only with reference to juvenile dependents.

MR. HIGGS: No. Our intent is to provide constitutionally for original jurisdiction in these cases, and in all other cases by statute.

MR. MAHINSKE: Well then, why do you even refer to original jurisdiction here if it is going to be by statute? I don't think that is what you mean.

MR. HIGGS: Maybe we are not on the same wave length here, the same frequency. I will yield to Chairman Danhof.

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Mr. Mahinske, what do you think the 1908 constitution provided?

MR. MAHINSKE: I think it provides for original jurisdiction in all cases of juveniles and dependents, but not restricting the word "dependents" to juvenile dependents.

MR. DANHOF: Let me state this — if that is your understanding, that is fine — it was our understanding that the 1908 constitution restricted it to juvenile dependents. Now, if the court wants to read "dependents" as meaning more than juvenile dependents, fine. We granted nothing more or nothing less than the 1908 constitution, and this was our sole intent. In the exclusive constitutional jurisdiction granted to the probate court there is no difference here than in 1908, and if that included adult dependents as distinguished from juvenile dependents, then it was the committee's intent that it be exactly as it was in 1908 wherein the only exclusive constitutional jurisdiction was in those words "original jurisdiction in all cases of juvenile delinquents and dependents," and that is what the committee intended and that is what we meant by the language.

MR. MAHINSKE: Well, we are in complete agreement here so there is no point in going any further, except would you be reluctant to strike the word "juveniles" from your committee report, not the proposal but the reasons, because I think this could be considered part of the record here and restrictive. On page 2 of your reasons you talk about "in all cases of delinquent and dependent juveniles."

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Well, I would consider the request, Mr. Mahinske, and if the committee will meet, we can take care of this. But, as I said, the intent of the committee was to leave it exactly as 1908, with the same language, except we did put the proviso in that it can be changed by statute. But the constitutional grant of jurisdiction in this draft is identical with that of 1908.

MR. MAHINSKE: Then your intent would be identical.

MR. DANHOF: Yes.

MR. MAHINSKE: Thank you.

CHAIRMAN VAN DUSEN: Mr. Radka.

MR. RADKA: Mr. Higgs, I have a question. The first question I have is the 25,000 figure. What was the rationale behind the committee's using the 25,000 population figure?

CHAIRMAN VAN DUSEN: Mr. Higgs.

MR. HIGGS: The rationale was simply that there were a number of delegates on the committee that did not feel that they wanted to make any such combination or they did not want to permit the legislature to make this combination in larger counties because they felt that in larger counties the business of the probate court itself was sufficient unto itself without making any combination with any other courts. Now, I am probably responsible for the 25,000 figure. I made a compilation of the distribution of low population counties and there were 5 under 5,000; 13 from 5,000 to 10,000; 9 between 10,000 and 15,000; 6 between 15,000 and 20,000; and 6 between 20,000 and 25,000; and there was just 1 in the division between 25,000 and 30,000, and we drew the line there because it seemed the likely spot, in that no county south of Bay, Midland, Isabella, Montcalm, Kent or Muskegon would be involved and that the only counties involved would be the low population counties north of that line, with the exception of 6 counties which we couldn't entirely fit in because 1 of those counties, Marquette, is 56,000.

MR. RADKA: Then my next question, Mr. Higgs, would be since you are dealing primarily with counties north of town line 16 and in the upper peninsula, and since you have quoted Judge Baird from Otsego county at great length, how many other probate judges in these some 38 counties did you take testimony from in your committee?

MR. HIGGS: We took testimony from other probate judges, in particular with regard to the district idea. I have consulted with other delegates from this territory. I don't know just what your point is.

MR. RADKA: My specific question was how many judges from the counties north of town line 16 and the upper peninsula did you take testimony from on this so called consolidation or circuit-probate court plan? You referred many times to Judge Baird from Otsego county as the authority or the voice of the so called rural probate courts and I wondered how many judges your committee — not you personally — received testimony from that was considered in the deliberations that brought this plan to us on the floor.

MR. HIGGS: I don't know how many others. We did take testimony from other judges, but how many I don't know. We had the president of the probate judges association. We had Judge Meehan. Judge Meehan specifically preferred the district idea, if I am correct. Maybe Judge Pugsley would like to speak on that.

MR. RADKA: I will yield to Judge Pugsley.

CHAIRMAN VAN DUSEN: Would you prefer, Mr. Higgs, to yield to Mr. Everett?

MR. HIGGS: Yes.

CHAIRMAN VAN DUSEN: Mr. Everett.

MR. EVERETT: Thank you, sir. If I might help to answer the question, one reason we placed a good deal of emphasis on what Judge Baird said was that he was the head of what is known as the top of Michigan probate judges association, so we looked upon him as not simply a judge from 1 county. He was at that time down here for their convention, was going out of office, but he was the head of the association of all the judges of that area. He didn't suggest that he spoke the unanimous voice of all the judges of that area, but he was their official representative and we looked upon him as carrying more weight than just a single probate judge.

CHAIRMAN VAN DUSEN: Mr. Radka.

MR. RADKA: I am acquainted with Judge Baird and I am acquainted with the probate court system in rural northern Michigan north of town line 16 and the upper peninsula and I would just like to offer here that the opinions of Judge Baird were probably the opinions of Judge Baird, and further on as we discuss this and amendments that we have before us, I think that another viewpoint might be present.

MR. HIGGS: Well, I would like to concur, Mr. Chairman, with the fact that Judge Baird was careful to state that they were his opinions and he was not speaking for the association.

CHAIRMAN VAN DUSEN: Mr. Lundgren.

MR. LUNDGREN: To whichever member of the committee would like to answer these few questions — like Daniel, I

am wondering if I am getting into the den here with all these lawyers. If I might go back to between lines 7 and 11 where you say the supreme court may decide to order the combining of these courts into 1 court, I would like a further explanation of just when and how and where the supreme court will decide it should step in and combine these and whether the people will have anything to say about it or will it be an automatic decision or just what will it be? How will they go back to the legislature and say "We want to combine these counties into 1 court"?

MR. HIGGS: Mr. Lundgren, the supreme court now has a court administrator working with the circuit courts and a deputy working with probate courts, and it was our feeling that the deputy court administrator, in keeping the records with regard to the business of these courts and the problems of these courts, probably would be in a good position to make a recommendation to the supreme court, and that this being an administration type of matter — I shouldn't say simply an administration matter, but at least the administration of the court work in these courts being under the supervision of this deputy administrator, that his knowledge would be most beneficial and he would probably be the best able to compile the necessary statistics to make such a recommendation, if that is any answer.

CHAIRMAN VAN DUSEN: Mr. Lundgren, would you like to yield to Mr. Danhof for further response if he has any?

MR. LUNDGREN: Surely.

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Let me say this, Mr. Lundgren: in regard first to the 25,000 population, this may look like it was picked out of the air. I assure you it was not. The considered opinion of the deputy court administrator charged with the function of administering and looking over the probate courts was that in a county of approximately 25,000 population, the probate court job pretty nearly reaches a full time position.

Now, insofar as the districts were concerned, there was not a single judge, probate or otherwise — and we had the president of the probate judges association; we had Judge McAvinchey from Flint for the large counties; we heard from the judges of Wayne county; we heard Judge Meehan from Oceana; from Judge Baird; we heard Judge Mary Coleman from Calhoun — not one objected. In fact all, including the bar association, recommended that probate courts be grouped into districts. In particular we inquired specifically of Judge Meehan, who comes from a relatively small county, whether or not there were those cases where it would be extremely difficult or would be needed to have a probate judge in every county. By that I mean the signing of orders of commitment of the mentally ill. And he said definitely not. He did not feel that 2 or 3 counties would be any great burden. Judge Mary Coleman, who comes from Calhoun, mentioned that she sat considerably in the adjoining counties; that, in her opinion, there is no difficulty, in this modern age of transportation and otherwise, of going. If you even have to go 35 or 40 miles to get a judge to sign the order, compare that with 1908 when if you were 15 or 20 miles from the county seat you were a full day's journey.

So that insofar as the districting is concerned, again here, we felt that as time progresses — and we realize this is not going to be done overnight — there can be a recommendation from the court administrator regarding those counties. And remember that, in particular in those areas where you have a nonlawyer judge — and we have a grandfather clause for the nonlawyer judges — as they may retire, resign, be defeated, gradually there would become a district basis the same as we have for circuit courts. And this had to be left to and should be done by the legislature.

Again, here we made it as strong as we could without making it mandatory that if the recommendations came based upon all of the research and the reports by the deputy court administrator — and hence the supreme court, Mr. Downs — that this then should and shall be done. Now we get down to the "shall" and "may" again and Mr. Brake smiles there a little bit. We meant "shall." We wanted to make it as strong as we could. But as Mr. Ford pointed out, when we say "shall," sometimes it takes 52 years. No, the supreme court cannot draw warrants or pay or anything else.

But remember this: there is no jurisdiction — there wasn't in the 1908 constitution — that was given to the probate courts other than for juvenile delinquents and dependents. Every other bit of work the probate court does comes by statute and is in effect taken away from the circuit courts. This is what we had in mind when it comes to the districting. We also thought in these small counties we would be able to assign to the probate judge, who gets all his jurisdiction by statute, other duties so that it might be best that he perform duties which had been handled probably by the justice of the peace or the circuit court commissioner, if you want that, in these small counties, and that is the object of the 25,000.

I realize that the gentlemen from Alpena, my friends Mr. Radka and Mr. Habermehl, say, "Well, let's go to 50,000," because in effect Mr. Habermehl came in with this identical idea and now we keep his county out because he has 28,000 and so he would like to go to 30,000. Well, the magic figure is at no place, but we didn't pick it out of the air; we did it upon the recommendation that when a county gets around this size, the probate judge job may get full time.

CHAIRMAN VAN DUSEN: Mr. Lundgren, do you desire to yield to Mr. Everett for further response?

MR. LUNDGREN: In about one minute. You have taken quite a few words to get around quite a few points, but you have also opened up something else here that I was going to ask about. It seems there is an opinion here to make the probate judge more than what we think of him now, and some of us are quite concerned about that. When you talk about arraignment of people in the middle of the night or cases — I know of the way the probate court works; sometimes they can spend a whole day on one family — he isn't going to have time to do these other legal things that you are talking about, and I question very seriously in counties my size or bigger whether you aren't getting too far afield, and that is what worries me, that somebody from Lansing can very capriciously say: this court area is too small and we are going to combine them — and the people up there will object to it, but they will have no voice in it. Will they have a chance to express themselves when somebody from Lansing or wherever it may be comes in and says, "We are going to combine your courts"? And we have court areas there that are over 100 miles apart. In modern day travel we just can't get there that quick. We can't, as somebody in Detroit said at our committee meeting, "take a jet." That is about as foolish as we can get on that sort of subject. The roads are better, but the time is still there. And these courts can't be combined in some of those areas as willingly as you seem to think. Now I will yield to Mr. Everett.

CHAIRMAN VAN DUSEN: Mr. Lundgren yields to Mr. Everett.

MR. EVERETT: Mr. Lundgren, I think one of the things which may be disturbing some of you from the smaller counties is that you are overlooking what those of us who are lawyers recognize. In the probate court, not in the juvenile aspects particularly but in the truly probate part of it, a great deal of the preliminary work is of a very routine and administrative nature, and the law now permits, for example, the oath of appraisers and the preliminary review of accounts to be made by the probate register. Now, we assume each county would retain a probate register so if the judge happened to be someplace else, most of these routine matters would be performed just as readily as they are today. The final order, in any case, must be signed by the judge. Usually these things can be scheduled on a daily basis, particularly in the juvenile area or in the mental area where there is a necessity for urgent action. Then if the districts were too big, this might play some hardship, but we don't think anybody is going to overlook that fact.

What I am trying to say is that the average routine preliminary matters can be handled whether the judge is there or not. The extreme case or the final determination would either have to be scheduled as it now normally is in fully 80 or 90 per cent of the cases in the smaller counties, and in

these other 10 or 15 per cent of the cases they are going to have to think of that before they combine, and recognize that there may be some very occasional inconveniences. It is just a question of whether possibly in an extreme case there is going to be some inconvenience or whether every county is going to be saddled with the expense of a probate judge who is not busy most of the time, and in these small counties they are not.

MR. LUNDGREN: Well, of course, in some of these small counties where they are lawyers, they are also doing their law work right within the courthouse, some of them.

MR. EVERETT: That is what we object to.

MR. LUNDGREN: You have nothing written in here on that.

MR. EVERETT: There is going to be an amendment offered by some of us from the committee to do just that, say that a judge may not practice law. Many of us on the committee feel this goes 2 ways. It should be a full time job.

MR. LUNDGREN: Then for the benefit of the record, I would also like this explained: when you get down further and combine these offices with any judicial office inferior thereto, could you clearly state what you feel might be inferior thereto that they could be combined with?

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Well, certainly we are not referring to personalities.

MR. LUNDGREN: No, no.

MR. DANHOF: Mr. Lundgren, as Mr. Higgs says, if you want courts of limited jurisdiction, our idea was simply that it is possible that the legislature will set up various classifications for courts of limited jurisdiction or, as we know them, as inferior courts. They will classify by size of the counties. We felt that we should point out here to the legislature that if they desired to utilize the office of the probate judge with those functions that they might assign in other counties of larger size to a court of limited jurisdiction such as the circuit court commissioner now does, we did not want to have a constitutional prohibition against that particularly for the small counties.

The circuit court commissioner is a constitutional office presently which is vested with the powers of a circuit judge in chambers but also does a lot of other things, basically evictions. In a very small county they sometimes don't even have a circuit court commissioner. And if necessary, we felt that if evictions were assigned perhaps to a court of limited jurisdiction in a county of 100,000, they could be assigned over to the probate judge.

We aren't making any of this mandatory. We are merely making it permissive and as flexible as we can. And I don't think what you envision is going to happen with the legislature, as you well know, without thorough investigation by all parties.

MR. LUNDGREN: Let me ask just this one closing question: would a county court, if set up, be inferior or superior to a probate judge?

MR. DANHOF: Definitely it would be a court of limited jurisdiction and is stated as being less than a probate court.

MR. LUNDGREN: It would be less than probate, a county court?

MR. DANHOF: It would be a court of limited jurisdiction and this would be less than, and not being constitutionally recognized, would be a statutory court which, in the steps that we have set up, would, in our interpretation, be inferior, or of less power or whatever you want to say, yes.

MR. LUNDGREN: Thank you.

CHAIRMAN VAN DUSEN: The Chair would like to advise the committee that there are currently 6 pending amendments which cover each of the subjects which have been discussed generally, and that it may be helpful to channel the discussion and consideration of this proposal by the committee if we proceed to the amendments.

The Chair has pending requests for recognition from Messrs. Krolikowski, Everett, Ford, Leppien and Kuhn, and would like to suggest that if any of these gentlemen have questions of a completely general nature not related to pending amendments, those questions would be in order at this time. Would any of those gentlemen like to be recognized at this point? Mr. Leppien.

MR. LEPPIEN: Mr. Chairman, fellow delegates, I would like to direct a question to Delegate Everett because he touched on it, and I first want to preface my remarks with this: for the past 15 years I have long since learned that we ought not, as lay people, question lawyers. However, being a delegate to this convention, I suppose that is part of the job, so I apologize for that. But in your remarks a few minutes ago, you said that the legislature shall by law provide certain things. My question is, sir, when we start up here:

> The legislature may combine 1 or more counties into probate districts, or combine the office of probate judge with any judicial office inferior thereto in any county with less than 25,000 population with supplemental salary as provided by law. . . .

then we say this: ". . . and shall do so on recommendation and report of the supreme court."

Now, I assume, sir — and if I am correct, that is all I want to have answered — that goes right to the very words I started with. The legislature in one case may do something. In the other case you say it shall do this on recommendation of the supreme court. Do I understand it correctly when I say that when the supreme court makes the recommendation to the legislature, the legislature has no power whatsoever except to do it? Is that correct?

MR. EVERETT: It could come either way. If it came in the form of a report and recommendation from the supreme court, then we use the word "shall" because we meant then the legislature would have to act. If, on the other hand, the thing started with the legislature, it is up to the legislature. They could, for example, provide for local option to decide this thing. But if it comes from the supreme court, then they shall do it and there would be no alternative.

MR. LEPPIEN: Mr. Chairman, through the Chair I would like to request one more question.

CHAIRMAN VAN DUSEN: Proceed, Mr. Leppien.

MR. LEPPIEN: In your remarks you refer to ordinary duties, every day duties, taking oaths and so forth and so on. What about the case of emergency for juveniles who need to be married for obvious reasons? What about the mentally ill who become so disturbed that they are unable to be moved from county A to county B by the sheriff except by straitjacket and so forth and so on, taken into the courthouse or the jail of county B if that is where the probate judge is? How do you envision that to be handled?

CHAIRMAN VAN DUSEN: Mr. Everett.

MR. EVERETT: Well, Mr. Leppien, I did not wish to suggest that there were no emergencies which would not require the judge. Now, as to the first situation, unless the condition were very obvious, I would imagine that it ought to be able to wait a couple of days at least until the judge got back. And as to the latter, today it isn't necessary to move the mentally ill to the judge. He may and does frequently have to conduct hearings when the mentally ill person is not there simply because he cannot understand the nature of it. I would say the judge would come to the mentally ill person or at least to that county. If the mentally ill person were in such condition that he could not even go to the courthouse of that county, the hearing would have to go on. In addition, the law now does provide, Mr. Leppien, for temporarily restraining mentally ill people on the order of the prosecuting attorney until such time as you may file a petition and call this to the attention of the probate court. We don't visualize that this will change.

There are many emergency situations which the probate judge does have to handle. Percentagewise in his business it is not great. And we feel that with some understanding and some work in this area, almost all of these can be handled in a district plan. And as Chairman Danhof suggested, virtually every probate judge who talked to us about this, including their association, has recommended this. They recognize that a probate judge per county is just not a practical situation.

MR. LEPPIEN: One other question then, sir, if I may, through the Chair. How do you envision to settle the question

then if the district is composed of, let's say, 3 counties, as an example, that the probate judge shall, because his is the only nonpartisan judicial office available to do this, be the chairman of the elections commission of a county?

MR. EVERETT: Well, to begin with, Mr. Leppien, his duties as election commissioner, of course, come from the statute. I don't know whether the legislature would want to have a nonresident serving on that election commission. If I were in the legislature, I wouldn't want to have it. I would have somebody else serve on the election commission. But this is a matter which the legislature would have to decide. We don't look upon this as being a constitutional question.

MR. LEPPIEN: Thank you.

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Mr. Chairman, in view of the hour and the amendments here, I move the committee do now rise.

CHAIRMAN VAN DUSEN: Mr. Danhof moves the committee do now rise. Those in favor will say aye. Those opposed will say no.

The motion prevails. The committee will rise.

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

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, the committee of the whole has had under consideration several 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 93,** A proposal pertaining to the circuit court; reports this proposal back to the convention with several amendments, recommending the amendments be agreed to and that the proposal as thus amended do pass.

[The following are the amendments recommended by the committee of the whole:

1. Amend page 1, line 12, after "rule" by striking out "or by law".

2. Amend page 1, line 14, after "judges" and after "circuits" by striking out "shall" and inserting "may".

3. Amend page 1, line 20, after "Sec. b.", by striking out the balance of the line, all of line 21, and line 22 through "years.", and inserting "Circuit judges shall be nominated and elected at nonpartisan elections in the county or the circuit in which they reside, and shall hold office for a period of 6 years and until their successors are elected and qualified.".

4. Amend page 2, line 6, after "tribunals" by striking out "as prescribed by supreme court rule;", and inserting "except as otherwise provided by law; power".

5. Amend page 2, line 13, after "purposes" by inserting a comma and "or other officer performing the duties of such office,".

6. Amend page 2, line 15, after "county clerk" by striking out "or" and inserting a comma; and in line 16, after "prosecuting attorney" by inserting "or friend of the court".]

PRESIDENT NISBET: The question is on agreeing to the amendments. Mr. Danhof.

MR. DANHOF: Mr. President, I would ask that the amendments to section a and to section b be divided and considered separately from the amendments to sections c and d at this particular time.

SECRETARY CHASE: The amendments offered to section a of Committee Proposal 93 are as follows:

1. Amend page 1, line 12, after "rule" by striking out "or by law".

2. Amend page 1, line 14, after "judges" and after "circuits" by striking out "shall" and inserting "may".

MR. DANHOF: Mr. President, I would ask again that on the 2 amendments there be a division, that we consider the amendment first as to line 12.

SECRETARY CHASE: First amendment:

1. Amend page 1, line 12, after "rule" by striking out "or by law"; so that the language then beginning in line 10 will read, "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 supreme court rule."

PRESIDENT NISBET: The question is on the amendment. Those in favor will say aye; those opposed, no.

The amendment is adopted.

SECRETARY CHASE: The second amendment:

2. Amend page 1, line 14, after "judges" and after "circuits" by striking out "shall" and inserting "may"; so the language then will read:

> The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges may be changed and circuits may be created, altered and discontinued on recommendation of the supreme court to reflect changes in the judicial business.

PRESIDENT NISBET: The question is on agreeing to the amendment. Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, we again return to this particular problem and, on behalf of the committee, I would urge that the convention not concur in the recommendation of the committee of the whole. The committee felt as strongly as we could that in the past there had not been a response to the judicial needs particularly of this state. As pointed out by the members of the Wayne county delegation, there has been no increase in the judiciary of this particular county for almost 30 years. We seriously considered the possibility of writing in a mandatory requirement concerning population; this we did not do because we did not like particularly to write in numbers or numerical provisions. We wanted to emphasize, as strongly as we could, that the question of the adequate protection of the laws by the people is not something that should be played with in politics, nor should it even be decided upon financial or monetary considerations. Whether or not additional judges are needed to handle a case load should not be determinative upon the fact whether the state has to add an additional $50,000 or $60,000 and the county likewise to pay them. With the emergence throughout all of the country of the idea that the administration of justice should be — I don't use the word — if not nonpartisan, should certainly be a bipartisan consideration and not something which should be kicked around or buried.

We wanted to emphasize as strongly as we could without having an automatic provision that when in the eyes of those who have the facilities, who have the figures, who have the available material at hand, there develops a definite need for additional manpower or for the change of circuits in order to give adequate protection to the public for the efficient administration of justice, that this should be done.

We realize that the supreme court cannot draw warrants, nor can it create the circuits, but I would urge that the convention not concur in the recommendation of the committee of the whole.

I would request, Mr. President, that there be a roll of the ayes and the nays in this particular regard.

PRESIDENT NISBET: There has been a request for the ayes and nays. Is that demand supported? Those in favor will rise. A sufficient number up. Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I will yield to Mr. Ford.

PRESIDENT NISBET: For what purpose? Do you want to make a speech or do you want to make a motion?

MR. FORD: I want to make a motion.

MR. HUTCHINSON: Well, I want to make a speech.

PRESIDENT NISBET: Mr. Hutchinson has been recognized.

MR. HUTCHINSON: Mr. President, I ask the convention to look at the other side of this coin for a minute or so, maybe a few minutes. You have heard one side of it from Mr. Danhof. Now let's look at the other side. What the language of the committee does here is to vest in the supreme court

would like to eliminate the "1" and say "having more than a judge" we will go along. We took all of the arguments as to why we felt it was good. If we are going to do it, it should be done. The bar association recommended it. Witnesses before our committee recommended it. If you are going to elect the judges, the least we could try to do is to shorten the ballot. We have provisions for the legislature to implement them. Without going back into all the arguments, I would urge the defeat of the amendment.

PRESIDENT NISBET: The question is on the amendment. Mr. Ford.

MR. FORD: Mr. President, I expressed yesterday that although we had a minority report that sought to do exactly what Mr. Kuhn is doing here, we did not wish to make a fight of it at this point because this issue comes up again in Committee Proposal 96 in a form where I think we can more readily resolve the issues. So I don't feel that the change of this word is essential at this time because I think it is something that can be done in Mr. Cudlip's committee to conform with whatever we do when we handle the matter in full in Committee Proposal 96.

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

The amendment is not adopted. Are there further amendments?

SECRETARY CHASE: That was the last amendment, Mr. President.

PRESIDENT NISBET: If not, **Committee Proposal 93** as amended is referred to the committee on style and drafting.

Following is Committee Proposal 93 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 state shall be divided into judicial circuits along county lines in each of which there shall be elected 1, or when provided by law, more than 1 circuit judge. A circuit court shall be held at least 4 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 supreme court rule. 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 the judicial business. No change in the number of judges nor alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.

Sec. b. Circuit judges shall be nominated and elected at nonpartisan elections in the county or the circuit in which they reside, and shall hold office for a period of 6 years and until their successors are elected and qualified. In circuits having more than one judge the terms of office shall be arranged to provide that they will expire on a staggered basis.

Sec. c. Circuit courts 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 supreme court rules; and jurisdiction of other cases and matters as the supreme court shall by rule prescribe.

Sec. d. The clerk of each county organized for judicial purposes, or other officer performing the duties of such office, shall be clerk of the circuit court for such county. The judges of the circuit courts may fill any vacancy in the office of county clerk or prosecuting attorney within their respective jurisdictions, but shall not exercise any other power of appointment to public office.

SECRETARY CHASE: The committee of the whole, Mr. President, has also had under consideration **Committee Proposal 94,** A proposal pertaining to the probate court; has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: 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.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye; those opposed, no.

The motion prevails. Mr. Van Dusen.

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

CHAIRMAN VAN DUSEN: The committee will be in order. When the committee last sat, it had under consideration **Committee Proposal 94,** a proposal dealing with organization and jurisdiction of the probate courts of the state.

For last previous action by the committee of the whole on Committee Proposal 94, see above, page 1380.

The general discussion of the proposal had been completed. Mr. Danhof.

MR. DANHOF: Mr. Chairman, Mr. Mahinske raised a particular question regarding the interpretation of the word "dependents". At that time I indicated that it was my opinion that the committee proposal was correct. I should like at this time to make additional reference thereto to solidify the interpretation given to it by the judicial committee.

First I should like to refer to the report of the submission and the address to the people of the Constitution of 1908 where they added this language, ". . . and they shall also have original jurisdiction in all cases of juvenile delinquents and dependents." Under the explanation it says:

> No change is made from section 13 of article VI of the existing constitution except for the purpose of improving the phraseology and the addition of the boldface words —

which were the ones that I read

> — these being added to make the powers conferred by law on probate courts in juvenile cases constitutional powers.

Now, this meant that there had been, prior to 1908, a statute in this regard. I read further:

> . . . that from the debates of the Constitutional Convention of 1907-08, volume 2, page 970, it shows that the word "dependents" refers to juvenile dependents with this explanation. After the proposal was placed on second reading, the following amendment was offered:
>
> After the word "delinquents" insert "and dependents."
>
> The argument by Delegate Simons on his amendment was as follows:
>
> That this proposal aims to make the probate court a juvenile court; that is, giving it jurisdiction over juvenile cases. Now, those who have had to do with juvenile offenders recognize 2 distinct classes. One of them is delinquents and the other is dependents. And that classification is made in all of the statutes which have been passed in various states dealing with juvenile offenders.

Therefore, it is the position of the committee that the committee report is correct and that juvenile delinquents and dependents has the exact interpretation it had in 1907-08, refers to juvenile delinquents and juvenile dependents. And with that in mind I would like to proceed, Mr. Chairman.

CHAIRMAN VAN DUSEN: Mr. Mahinske, do you desire recognition?

MR. MAHINSKE: Yes. But then I would like to ask further that by repeating this language, it is not your intent to take any adult dependent jurisdiction away from the probate courts that had been conferred on the probate courts since 1908?

MR. DANHOF: By statute?

MR. MAHINSKE: By statute.

MR. DANHOF: No. Absolutely correct. We are not conferring upon them constitutional jurisdiction of adult dependents, Mr. Mahinske, only what they had before as it relates to juveniles.

MR. MAHINSKE: And you are not withdrawing from them the statutory adult dependent jurisdiction that they have?

MR. DANHOF: Of course not, because whatever is granted to them by statute they keep. We provide that they shall have such jurisdiction and powers and duties as shall be prescribed by law, and whatever is given to the probate court by law is what they have in addition to this juvenile jurisdiction.

MR. MAHINSKE: Fine. Thank you.

CHAIRMAN VAN DUSEN: Mr. Boothby.

MR. BOOTHBY: Mr. Chairman, I would like to direct a question to Mr. Danhof.

CHAIRMAN VAN DUSEN: If the gentleman cares to answer.

MR. BOOTHBY: Mr. Danhof, just so the record is straight and that my mind is clear on this matter, does the committee contemplate that in those counties with a population of less than 25,000, the court administrator can command and direct the legislature to provide a supplemental salary for probate judges in those counties?

MR. DANHOF: Well, as Mr. Higgs pointed out, the intention was that every county that has a probate judge pays him $5,000 now by statute, and we only would provide, we hope, that if they add to the duties of the probate judge, that they would add a supplemental salary as shall be provided by law.

Now, we have just gone through this whole deal again. Again we get down to: if there are additional duties that seem to be placed upon the judge because they transfer to him, we will say, the jurisdiction of the circuit court commissioner — which they could do, which they might do — that you have a salary scale generally for probate judges. Perhaps their whole salary scale would be revised. Again we would hope that if this procedure is adopted, that the recommendation of the court would be accepted, the theory being that if you want to have an attorney, you are trying to get a salary which would attract an attorney full time and give him a living wage in these counties.

MR. BOOTHBY: Then I think you have answered my question. What you are saying then is that the court administrator can dictate his will as to the salary of a probate judge in a particular county, and that if the legislature carries out the constitutional mandate, they must carry through with this particular directive of the court administrator. Am I correct?

MR. DANHOF: Of the supreme court, Mr. Boothby, not the administrator.

MR. BOOTHBY: Another question, Mr. Danhof, if Mr. Danhof would care to answer. Is it also in the contemplation of the committee that the court administrator, acting for the supreme court, could actually direct and command the legislature to set up a wholly new inferior court system in certain counties of the state?

MR. DANHOF: Wholly new?

MR. BOOTHBY: That is correct.

MR. DANHOF: No, because there you have to have a 2/3 vote. And the legislature, by section a, which you have already passed, is given the sole authority to set up any new court, Mr. Boothby.

MR. BOOTHBY: Let me ask this further question, if you would care to answer. Is it possible that by this command of the supreme court, they could command the legislature to set up a county court system but just naming it a probate court system, taking away the powers of the justice of the peace and yielding them to the probate court and in effect setting up a new judicial system?

MR. DANHOF: Well, this is the whole import of the amendment. You group this together with the idea that we have recommended that the justice of the peace and the circuit court commissioners be deleted from the constitution, and that within 5 years their powers, duties, et cetera, be transferred to some statutory court. And if this would turn out to be the best procedure, we would certainly hope that it would be utilized. This is the entire reason for recommending this particular type of proposal in these types of counties.

MR. BOOTHBY: If these courts were combined so that the probate court actually acted as the court over all of the inferior court matters, would this require a 2/3 vote of the legislature?

MR. DANHOF: I don't necessarily think so. This is my own personal opinion. It would not be setting up a new particular type of court because you see, Mr. Boothby, everything that the probate judge has now except juvenile authority comes by statute anyway, so they could assign him many duties right today that the circuit judge is performing or anything that even the justices of the peace are performing over and above what is constitutionally granted to them.

The probate court has no original jurisdiction except juvenile. Everything else comes from the statute and it, in effect, is a derogation of the jurisdiction of the circuit court, and I would imagine that if the legislature had seen fit over the past years, it could have, in effect, if it desired, reduced the probate court to nothing more than a juvenile court under the 1908 constitution and transferred everything that is in the probate court back to the circuit court. Now, we don't think that would happen. It hasn't happened. There is no reason to think particularly that it would. But I think that sometimes we get confused. There is no constitutional jurisdiction to the probate court except in just 2 cases: juvenile delinquents and juvenile dependents. The rest is all statutory and always has been and will continue to be.

MR. BOOTHBY: As I listen to your explanation of this section, I can only conclude that the court administrator, acting on behalf of the supreme court, can command the legislature to do 2 things: spend the taxpayers' money on supplemental salaries, and set up a completely new court system on the inferior court level by indirection. I understand they cannot do it directly, but they can do it indirectly by taking away the justice court functions and placing them in the hands of the probate court and giving them all the power which the inferior courts have.

CHAIRMAN VAN DUSEN: Mr. Higgs.

MR. HIGGS: Mr. Chairman, I would like to take up Delegate Boothby's question here. His understanding is certainly not mine, completely. Following on line 8, if you follow the comma after "districts" you read that entire clause:

> . . . or combine the office of probate judge with any judicial office inferior thereto in any county with less than 25,000 population with supplemental salary as provided by law. . . .

I think I can speak for the committee in this matter, and if I don't, I hope that they will correct me. It was my understanding in the construction of that sentence that "with supplemental salary as provided by law" applies only where the office of probate judge is combined with another judicial office. It does not apply to the combining of probate courts into districts.

Now, inasmuch as the probate salary is set by the legislature now, and inasmuch as it is merely provided that if additional judicial duties are added to the office, there be a supplemental salary, there is no power whatsoever in the court administrator — or it would be better and more correct to say that the supreme court, upon recommendation of the court administrator, has no power to determine what the supplemental salary is. This was designed, really, to provide a method that the legislature could use to create a court system at less money, because in counties with less than 10,000 population, they just don't have very much probate business, and they have, at the very minimum, $5,000 base salary by statute, and with a reasonable supplement, you have the base upon which to build. Our whole problem arises because we are incorporating into the constitution this tier of courts, the probate court. As I told you before, only 13 other states provide in their constitution for a probate court. What we have done is, we have provided for a probate court and we are trying, in including

it in the constitution, to also include a degree of flexibility for the handling of these problems in counties regardless of their size.

CHAIRMAN VAN DUSEN: The Chair will once again advise the committee that there are pending, in addition to the amendment pursuant to the minority report, some 7 additional amendments which cover, in the Chair's opinion, everything which has been discussed to this point, and it might be helpful in channeling the course of our activity to consider these subjects as the amendments arise. The secretary will read the amendment offered pursuant to the minority report of Messrs. Ford, Garvin, Bledsoe, Ostrow, Krolikowski and Barthwell.

SECRETARY CHASE: Mr. Ford, on behalf of the minority, offers the following amendment:

1. Amend page 1, line 14, after "dependents" by striking out the comma and "except as otherwise provided by law".

CHAIRMAN VAN DUSEN: On the amendment offered by Mr. Ford and others, the Chair will recognize Mr. Ford.

MR. FORD: Mr. Chairman, members of the committee, the rationale for the minority report is on page 581 of the journal. I will read in part from it.

[Paragraphs 1 and 2 of the minority report supporting reasons were read by Mr. Ford. For text, see above, page 1381.]

That is to say, we don't feel that the same judge who tries adult offenders and who hears other forms of cases that are always an antagonistic proceeding should be dealing with juvenile matters and particularly with juvenile offenders characterized as juvenile delinquents.

[The remaining 2 paragraphs of the minority report supporting reasons were read by Mr. Ford. For text, see above, page 1381.]

As has already been stated here today, the only constitutional power that the probate court has is this phrase. The effect of the committee's language at the end would be to nullify a constitutional guarantee that you can never merge the juvenile function with general trial function. A number of people who have been very active and very prominent in the juvenile field from the standpoint of juvenile court administration have recommended very strongly that we retain the language of the 1908 constitution, and there are a number of reasons that they advance in support of this position.

The question is going to be raised and the assertion is going to be made — so I might as well get it out on the floor now — that the reason for the addition of the qualifying language by the committee "unless otherwise provided by law" is to permit the creation of a family court. Well, I want to say that people who have been advocating the wisdom of a family court in Michigan — and I am one who subscribes to the idea, but again this is something like home rule. I guess we are not all talking about the same thing when we are talking about a family court — have come to the conclusion that the present constitution does not prohibit the creation of the kind of family court that they think Michigan needs.

We do not now, for example, have a juvenile court set up in the state as a separate court. We do have the juvenile function in the probate court, and the probate judges throughout the state are in effect juvenile judges. But probate judges do not try other criminals. They don't try adult criminals. And when we are talking about juveniles here, it should be made very clear that we are talking about people under the age of 17. When they reach 17 they become adults in the eyes of the law for the purpose of criminal prosecution. So we are talking of children of tender age.

Historically our system of justice fought with this problem for many, many years, and at the time of the 1908 constitution throughout this country there was a wave of revulsion over cases reported of children of very tender years. At just about the time of the last convention there was a rather famous case involving a 10 year old child being tried in a criminal adversary proceeding. The feeling of people for many years has tended toward the idea that children had to be treated differently when they committed a wrong against society than adults and that a different standard not only had to be applied to their conduct but a different manner of handling them as offenders had to be effected.

I think that the evolution of this concept is summed up quite well in the testimony given before our committee by Judge Mary Coleman, of Calhoun county, who spoke for the probate judges in front of our committee, and particularly on the juvenile aspects. She says on page 3 of her prepared statement:

> The juvenile court should be placed in that court the nature and philosophy of which is most closely allied. The matters coming before the probate court: probate of estates, commitments of the mentally ill and handicapped, guardianships, adoptions, juvenile court proceedings, etc. are well suited to be grouped in one court, a court of neither criminal jurisdiction nor one basically adversary.
>
> Less than half a century ago, in some states (not Michigan) of this country, a 10 year old boy who broke a street lamp could be brought into an adult criminal court. The importance and urgency of this issue was certainly very much in the minds of the drafters of the 1908 constitution, for they lived at a time when this was a burning cause. They recognized the issue as fundamental and a far sighted convention placed juvenile matters in the only noncriminal, nonadversary court in our state system.

It should be stated as it stands now, with the new 5 tier system that this convention has thus far agreed to, the only noncriminal nonadversary court available for the handling of these affairs is the probate court. If Mr. Higgs' amendment, which is part of the committee report, is adopted, this might be modified in some part, thus making an important step forward. This was a victory in a battle which had been waged for hundreds of years. It took longer for children to be treated as children than it did for all of us to obtain the constitutional right of free speech. I would like to repeat that: it took longer for children to be treated as children than it did for all of us to obtain the constitutional right of free speech.

Long after we had recognized all of the other basic rights that we now subscribe to and recognized them in the form of our bill of rights or declaration of independence in the constitution itself, we were still trying to convince people in this country that children had to be treated differently than adults when they got into trouble. As a matter of fact, there are states in this country today that still do not embrace this concept, and it has been suggested to me very recently, during the noon recess, that maybe we don't need this any longer because certainly we are all enlightened enough now so that no one would ever attempt again to put the children back into the criminal courts of the adults.

Well, it has been done right here on this floor, because this 25,000 population merger proposal will say that in counties of 25,000 or less the same person who holds examinations in all of the criminal matters, ranging all the way to and including murder, could conceivably be the probate judge, and the probate judge would be the juvenile judge, and you will be putting them back where they were a couple of hundred years ago.

Also we have had people before the committee and we have had professional recommendations that the whole system, as Mr. Higgs urged on you just a few moments ago, should be merged and there shouldn't be a separate probate court, and one of the strongest reasons for having a separate probate court is for having a separate court, a place in which you could repose the juvenile function and not have the danger of adding to that court's duties criminal or adversary proceedings.

Going on with Mrs. Coleman's statement:

> Let us not regress or place in hazard these important gains. To assure the place of children in our court system, such should be specified in the new constitution. The new constitution should retain that which is good in the 1908 constitution and remove or change that which should be removed or changed.

Now, in addition to Mrs. Coleman, we had testimony on behalf

of the probate judges association, and the Honorable Phillip Mitchell of Hastings made a presentation to us. I would like to read briefly from that:

> My own views are that exclusive original jurisdiction over juvenile delinquents and neglected children under the age of 17 years should be given to the probate courts, and that in addition the legislature should be authorized to establish family courts in such areas of the state as they deem it advisable by adding this jurisdiction to that of the probate court in the area affected.

In other words, the probate judges association is saying, "We agree that a family court would be a good thing, but we don't feel that you have to tamper with the constitutional guarantee of juvenile function being separated from other courts in order to accomplish your purpose."

I might say that although the family law committee of the state bar association has not had an opportunity to take a final position on this matter, I am a member of that committee and have participated in a number of discussions concerning the family court. There is a considerable amount of sentiment on this committee for some form of family court, but I think that it is fair to say that a majority of the members of the committee think that as a legal proposition a constitutional change is not necessary to make it possible to provide the kind of family court that people who are working in this field directly feel the state of Michigan might need now or on into the future.

Very recently you received, all of you, a letter from the juvenile judge down in Wayne county, and Mr. Garvin is going to discuss that, but just the other day we received from Mrs. Coleman a letter supplementing her testimony. It is dated February 20, 1962, addressed to the chairman of our committee:

> The juvenile affairs committee of the Michigan probate judges association strongly recommends striking from judicial Committee Proposal 94 relating to probate courts the words "except as otherwise provided by law" on line 14.
>
> The present form of the proposal provides no constitutional guarantee that children will not again be tried in adult, criminal, adversary courts — on the contrary, it leaves the door wide open.

I would like to supplement that by saying it not only leaves the door wide open, but there are people who already have their foot in the door, and it is the first step toward the amalgamation, once again, of these functions with a court where they don't belong. She goes on to say:

> We reiterate the position of probate judges that gains made over the last century be protected in the new constitution and children continue to be guaranteed hearing in noncriminal, nonadversary courts.
>
> It is respectfully suggested that an amendment be supported eliminating the endangering words "except as otherwise provided by law."

I am very pleased that the minority put its minority report in quite some time before these communications were received and, without any contact with us, spontaneously suggested the very change that we are here suggesting in the minority report.

I do hope that the ensuing discussion of family courts and other considerations doesn't serve to becloud the issue because it is a very simple, clear and concise one, the question whether we feel it is necessary to have such a constitutional guarantee or not, because when we put the qualifying words in that the committee puts in, the legislature could at any time intentionally or, what is worse, inadvertently in the creation of inferior courts or in the enactment of statutes not primarily for this purpose once again put the children back in the adult courts.

With that I would like to yield to Mr. Garvin, a member of the minority that signed the minority report that supports the amendment proposed.

CHAIRMAN VAN DUSEN: Mr. Ford yields to Mr. Garvin.

MR. GARVIN: Mr. Chairman and delegates, you know, I hope we face this issue squarely and not get off too much on side issues because it deals with juveniles, someone who cannot be here with us and someone whom we must continue to do the best possible to protect and bring up as proper citizens. There have been questions and statements about juvenile delinquency becoming worse or in greater percentage. Whether it is or not I am not here to discuss, or whether it is because of greater population. But I do know that it goes on throughout the state of Michigan without regard to the size of your county or the size of your district or the section of Michigan in which you live. Now, this in 1908 was added; that is, placing a period after giving the probate court original jurisdiction over juveniles and dependents for the very reason, as stated by Mr. Ford, that they shouldn't under the age of 17 be in adult criminal courts particularly.

There has been some discussion about a family court, but this would not be where a family court should be. In our Committee Proposal 90, our fifth tier of courts includes establishment of other courts of inferior jurisdiction. That is where it would be. To further explain this, I want to read part of a letter from the vice chairman of the juvenile affairs committee from the Michigan probate and juvenile judges association, Judge James H. Lincoln. By the way, this letter was just dated last week, long after the minority report was put in.

> The adding of the words "except as otherwise provided by law" has in effect removed all constitutional guarantees concerning juveniles that are contained in the Constitution of 1908. The practical and actual result of including the words "except as otherwise provided by law" goes far beyond the stated or intended reason for including these words. The actual result is to remove the bill of rights for juveniles from the constitution. There will be no constitutional guarantee. Juveniles may once again be tried in adversary and adult criminal courts. It took centuries to get children out of adversary and adult criminal courts. The constitution of 1962 should not remove the time tested guarantee given to juveniles in the 1908 constitution.
>
> If the words "except as otherwise provided by law" are stricken by amendment, there will then be a constitutional guarantee that juveniles will be tried in a nonadversary court and noncriminal court.

The letter proceeds on that general basis, that we are going centuries back if we allow this amendment there so the legislature can add any type of court they want. I was also going to mention — Mr. Ford has already mentioned it — about the fact that the legislature won't do that, when we are trying to do it ourselves here.

I have no objection to perhaps circuits being combined at 25,000 or more, but I don't see how it can be done and still retain the juveniles in a court of their own because of the adult matters that are happening in the justice courts for example.

Now, in reference to a family court, I will repeat again there is room for that. There is provision made so the legislature could establish family courts, and this section in this constitution is no place to take away our juvenile courts for the juveniles because that is where it should be, and I hope that you vote for this minority report amendment.

CHAIRMAN VAN DUSEN: Mr. Ford, you retain the floor.

MR. FORD: Mr. Chairman, I would like to ask if there are any other sponsors of the minority report who would like to speak on this. I don't think there are. And with that, we will rest our case.

CHAIRMAN VAN DUSEN: Mr. Baginski. Mr. Baginski, excuse me. Mr. Krolikowski, do you yield?

MR. KROLIKOWSKI: Yes.

CHAIRMAN VAN DUSEN: Mr. Baginski.

MR. BAGINSKI: Mr. Chairman, members of the committee, I rise in support of the minority report amendment. I stand here as an employee of the probate court for 22 years. I can say this this afternoon: the bench in Wayne county has asked me to rise to the floor to support this minority report amendment and to see if we can strike out these 5 words.

We have heard a lot about criminals in juvenile court and so forth.

Let me say this to you and cite another facet of the juvenile court. When I first came to the probate court, we had 6, maybe 10 mentally ill children that we found had to be committed per year. In the ensuing years we found that had we had proper psychological clinics, psychiatrists to examine these children who were committed to boys' vocational or the Adrian school for girls, they would not have had to go to Adrian or to boys' vocational. These children were mentally disturbed and mentally handicapped and should have gone to mental institutions. In these years we have a psychiatric staff; we have a child guidance clinic; we have a psychological clinic, and today, rather than force these children to go to boys' vocational where they become lost with some children who are of a criminal tendency, where they learn a lot of new ideas and later end up in Jackson prison, these children are sent to Northville or Ypsilanti and are treated as emotionally disturbed children, or they are sent to Lapeer or to Coldwater or to Newberry, whatever the case may be, and they are treated as mentally ill children and eventually get home. This is one facet of this work.

Now, the type of people who are employed in the juvenile court are specialists trained to do this particular work. We have some children who are placed on probation. They are handled by probation officers who know this particular kind of work, and they are career people and are trained to do this. Now, we are interested that the work that we have, the plant, the building, the Wayne county youth home that has been established at a cost of many millions of dollars remain with the court, that the special type of work remain with the juvenile division of the probate court, and if at some time in the future it is felt that they would like to create a family court, they can do it by the legislature and go on about their own composition.

We earnestly urge you to support the minority report amendment.

CHAIRMAN VAN DUSEN: The gentleman from Bay City, Mr. Higgs.

MR. HIGGS: Mr. Chairman and members of the committee, this is indeed a very serious matter. There is nothing about it that should be taken lightly. The committee has considered, I think, every aspect of this problem that has been raised here so far today. I do indeed wish you to face the issue squarely, not on the basis of any pressures that may be involved.

I too have letters from probate judges including the dire implications of what we might do, and I don't take them lightly, and I certainly do believe that we must here today consider all of the rights of children, who cannot speak for themselves, and I agree that children should not be tried in adult criminal courts particularly, as has been stated here.

I don't think that there is any possibility — and none of the judges that appeared that were asked the question felt that there was such a possibility — that we are going to try 10 year olds in adult criminal proceedings any more at any time in the future. This is really looking back many, many years. I haven't heard anyone anywhere advocate such a thing. And I heard Delegate Ford speak the other day about seeing ghosts, and I think certainly that is a ghost that he is seeing here today. Now, let us face the issue squarely. Delegate Ford says there is room in Michigan for the kind of family court Michigan needs. And believe me, I don't in any way mean to take anything away from the sincerity of the argument. This is exactly why we have attempted to write into this provision the degree of flexibility that we did, because we did not believe that we were able to know exactly what kind of family court Michigan does need. If we did know, we would have written it in.

We had in New York state last year a new judicial article, and it does include a family court. And that family court includes the jurisdiction of a children's court, a domestic relations court, aspects of the surrogate court and the circuit court, and it is a separate and independent court. It is a noncriminal court, especially set up for certain purposes.

I think we need to include in our constitution a provision which is broad and flexible enough so that we can take advantage of the experience of other states in the development of their courts along this line. We have the opportunity to watch the development before we go into it, see how it works. I think that is the most enlightened approach that we can possibly take. I note here in the letter from Judge Lincoln that if these words are stricken, there is no guarantee that the juveniles will be tried in a nonadversary and noncriminal court. Well, of course, the probate court is not a nonadversary court. There are a number of proceedings in probate court that are adversary. The jurisdiction of the probate court includes all kinds of things you probably never heard of, including appointments to the board of auditors, appointments to the county allocation board, appointments of members on the soldiers relief commission. It includes condemnation proceedings of 3 different types. I have a page and a half listed of duties of the probate court.

I would like to say that when Delegate Baginski tells us about the fine facilities in Wayne county for handling emotionally disturbed children and the employment of specialized juvenile court workers, this is exactly one of the reasons why we would like to make it possible for the legislature to develop possibly district probate courts or district juvenile divisions of the probate court so that they can employ the facilities and the people trained to do this kind of work. The door is open not to going backwards but to going forward. We can't look in a crystal ball and know exactly how this should be done. But I do believe that since we have gone this far — and we are going much farther than a majority of the states of the United States; there are only 13 other states that include the probate court in their constitution — then I think it is very important that we do include the flexibility necessary to develop better ways of handling juveniles.

I don't think it is necessarily true that the juveniles are best handled in all probate courts in the state of Michigan. It may be that the juvenile aspects should be entirely out of the probate courts in some parts of the state. Now, I don't know and I am not trying to tell you what this plan should be. I am only urging that inasmuch as we have continued the placement of the jurisdiction in the court, that you do not take away or strike out this provision, which would make the probate court inflexibly the source of original jurisdiction.

Let me give you a thought going back to this issue that Delegate Ford raised. What kind of a family court do we need or want? My understanding of what I have read in this direction is that if a judge can have before him perhaps in a domestic relations matter the entire aspect of the family relationship — maybe this is the kind of problem that generates juvenile deliquency and includes also adult delinquency, and as a way in which he can have the total picture before him, and not only the total picture but the power to act not only on the juvenile but on the adult, and with the assistance of experienced and trained people — if the judge can have that picture before him and the power to act, this is what the family court is striving for in other states, and I don't want to close the door in such a way, if the family court is developed as the kind of family court that Delegate Ford suggests, that it will exclude the jurisdiction over the juvenile dependent and neglected or the juvenile delinquent, but should include this unfortunate child within the fold of that court and within the framework of the social work that may be done to either bring that family together or look after the best interests of that child. I don't think we are prepared to say what kind of a family court we want to either prevent or provide for today.

And I urge, and respectfully, that you defeat this amendment.

CHAIRMAN VAN DUSEN: Mr. Staiger.

MR. STAIGER: I wonder if I could ask a question of Mr. Ford.

CHAIRMAN VAN DUSEN: If the gentleman cares to answer.

MR. STAIGER: Mr. Ford, as I understand it, your objection to including this wording "except as otherwise provided

by law" is that it leaves the door open for the legislature to combine juvenile jurisdiction into a court having general adult criminal jurisdiction? Is that correct?

CHAIRMAN VAN DUSEN: Mr. Ford.

MR. FORD: Yes. General adult criminal jurisdiction is the one we are most afraid of, but we also don't want it in the circuit court where adversary proceedings obtain, because the procedure in the juvenile court is informal and is not related to the procedure that is carried on in the adversary courts.

MR. STAIGER: So if these things were specifically prohibited, you would have no objection to leaving the flexibility so that it is clearly understood that a family court could be established. As I understand it, the majority report makes it clear they do not want what you are seeking to prohibit either, so if we clearly prohibited that by amendment, then there would be no objection to leaving it flexible for the establishment of some other court of a family jurisdiction?

MR. FORD: If we could use other language to do what I am trying to do, I would have no objection to it at all. The only thing is we have been doing it this way for 52 years and people who have actually — not people who have guessed about it, but the family law committee of the state bar which has been working hard on it does not think that the present constitution prevents the creation of an adequate family court.

MR. STAIGER: I would say that it certainly does create some doubt in my mind that you would still be able to establish a family court, and I think that by simply adding a few words to the language rather than striking it all, we could prohibit the thing that the minority is fearful of and the majority clearly states that they do not intend. And I think if this amendment is defeated, we can get some language up there fairly quickly that will prohibit what Mr. Ford seeks to prohibit actually by his amendment.

CHAIRMAN VAN DUSEN: Mr. Knirk.

MR. KNIRK: Mr. Chairman and delegates, I would like very definitely to say that I would like to support the minority report amendment, primarily because of the fact that I, too, am afraid that we will find ourselves opening the situation up to trying the juveniles in the criminal court. I have here before me a letter from former Senator Coleman which I would like to read just a single paragraph from. He says, in his opinion:

> Committee Proposal 94 gives the probate courts "original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law." I believe that this quoted provision is dangerous and that juveniles should be processed in nonadversary courts and should not be brought into adult criminal courts or any section thereof.

I think this is the opinion of the sponsors of this minority report amendment, and I feel that there is a danger that juvenile delinquents very definitely might find themselves tried in criminal court, and I think that inasmuch as it has been proper in the last 50 odd years, that we should retain the present language and delete as suggested here by the minority report. Thank you.

CHAIRMAN VAN DUSEN: Mr. Krolikowski.

MR. KROLIKOWSKI: Mr. Chairman, I should like to direct a question to Delegate Higgs.

CHAIRMAN VAN DUSEN: If the gentleman cares to answer.

MR. KROLIKOWSKI: As I understand the committee position, the purpose for the insertion of the language that the minority report finds offensive was to allow for the creation of a family court; is that correct?

CHAIRMAN VAN DUSEN: Mr. Higgs.

MR. HIGGS: I would like to say that that is the principal purpose.

MR. KROLIKOWSKI: But now actually if that language were stricken, a family court could still be created. The only difference would be that the family court would have its base in the probate court; is that correct?

MR. HIGGS: I think that that is possible. I think that it would be possible for the probate court to have a family court division. I think it would be limited to less than the circuit court jurisdiction. My point was that I think, if the experience with a family court such as New York has proves successful, that this should be a totally separate and independent court, and that it would include some of the jurisdiction of the circuit court and some of the jurisdiction of the probate court so that you would have the total family problem before you. If you had a domestic relations case, you might have a father who is either delinquent in his alimony or he might even be guilty of the crime of nonsupport, all of which should be before the court when he may be considering the problem of a dependent, neglected child. Both the judge and the social worker should have the whole picture before them.

MR. KROLIKOWSKI: All those facets of domestic life could be covered within the concept of a domestic relations court which was based in the probate court.

MR. HIGGS: Well, I think that is true. But then that defeats your argument that you want to have it in nonadversary court, because the probate court is an adversary court with many other functions, like condemnation proceedings, mental cases and estates and all of these other duties.

MR. KROLIKOWSKI: Well now, if we don't have the family relations based in the probate court, then you move in either of 2 directions. You move up to the circuit court where there is no question that there are adversary proceedings, or you move down to this fifth tier. Now, the complexity of that fifth tier has still been undetermined. Only the legislature will finally determine the complexion of the fifth tier.

So you have 3 possible solutions: you either move up to the circuit, which is concededly adversary; you base it at the probate level, which has a very minimal amount of adversary proceedings; or you allow it to go down to the fifth tier, where you are totally uncertain as to the nature of the proceedings. The nature of the proceedings in essence will be determined by the legislature at that fifth tier; is that correct?

MR. HIGGS: Regardless of the tier that you are at — and I don't think you could go down if you wanted to have the complete jurisdiction, but regardless of whether you were at the probate tier or the circuit court tier, I would conceive that this would be a separate division. In other words, you are thinking in terms of a judge whose sole function is to handle this aspect of the court's business. There is no reason why you cannot set up a separate division.

MR. KROLIKOWSKI: Right. But this division could equally exist at the probate court level, could it not?

MR. HIGGS: I am not satisfied that it could exist equally at the probate court division. I am not arguing that it be at either division. I am just arguing for flexibility so that Michigan can take advantage of the experience of other states in the development of this kind of a court, and I wouldn't want to tie the hands of the legislature so they could not take advantage of the experience as it develops.

MR. KROLIKOWSKI: But I don't understand where the flexibility cannot be achieved if it is based at the probate court level.

MR. HIGGS: Well, certainly probate judges apparently want it there very strongly. I can't really qualify my remarks more than to say that I think it should be a matter of flexibility so that we can take advantage of the experience of other states in the development of these courts.

CHAIRMAN VAN DUSEN: Mr. Higgs, are you willing to yield to Mr. Everett to supplement your response?

MR. HIGGS: Yes.

CHAIRMAN VAN DUSEN: Mr. Everett.

MR. EVERETT: Mr. Krolikowski, one reason presently existing why a family court cannot be created within the probate structure is that in the state of Michigan there are 33 nonlawyer probate judges. Now, we have in this judicial article, as you well know, provided that those men may remain in office until they reach 70, providing they can keep getting elected. No legislature is going to grant divorce powers to these men. This may be a generation from now. We don't know when they will become 70. We don't know what their ages are today. But it could very easily be a generation or a minimum of 10 to 15 years. This is one very sound reason why today at

least you cannot create a family court within the structure of the probate court.

MR. KROLIKOWSKI: All right. If that is your only objection, the nonattorney qualifications or the nonattorney rank of certain probate judges, you must restrict that reasoning to certain counties, because certainly all counties are not victimized or don't enjoy that type of justice at the probate court level. There are counties certainly in the state wherein all the judges are licensed attorneys. Now, the problem that you raise is a situation that exists in only a very limited number of counties. Furthermore, it is a situation which will be cured within the article proposed by the judicial committee. These probate judges will only be allowed to stand reelection. After they have had the benefits of reelection, all judges must be licensed attorneys, so time will obviate your objection, and your objection has no applicability in certain counties where all the probate judges are licensed attorneys.

MR. EVERETT: I agree with you that this is only a partial objection. I said at the outset this is only one of the reasons. It exists, however, in 33 counties, which is a very substantial number of counties, and those counties for some period of time prohibit what you are talking about. Mr. Higgs has pointed out other reasons.

Maybe I ought to talk like Dr. Nord and tell you what we are not doing here. We are not creating a family court. We are not saying to the legislature that you ever must have one. We are not saying that it should be in the probate court or someplace else, or whether it should come into existence. We are simply saying that if the day comes when the legislature, on the experience of other states, wants to try it they ought to have the right to do it, and I think Delegate Staiger has clearly given you an opportunity to solve this dilemma. You don't want them in the criminal court. We don't want them in the criminal court. Let's just say so in the constitution. That is all it takes.

MR. KROLIKOWSKI: Good.

CHAIRMAN VAN DUSEN: Gentlemen, the Chair is reluctant to interrupt your colloquy but would appreciate your occasionally acknowledging his presence in the course thereof. (laughter)

MR. KROLIKOWSKI: I'm sorry, Mr. Chairman.

CHAIRMAN VAN DUSEN: You may proceed, Mr. Krolikowski.

MR. KROLIKOWSKI: Let me just raise this question, Mr. Everett — if I may, Mr. Chairman. (laughter) If I may direct a question to Mr. Everett.

CHAIRMAN VAN DUSEN: If the gentleman cares to answer.

MR. KROLIKOWSKI: Well, now, in order to achieve this end, you have in effect stripped the probate court of the sole facet of original jurisdiction which was lodged in the probate court. With your language as it is, the one aspect of original jurisdiction enjoyed by the probate court can be stricken by the legislature. That is in effect what you do. Is that not correct?

CHAIRMAN VAN DUSEN: Mr. Everett.

MR. EVERETT: Mr. Chairman, Mr. Krolikowski, we permit the legislature to do this, absolutely. We do not strip the court of any power. We do permit the legislature to make this change if and when it wants to do it.

MR. KROLIKOWSKI: Mr. Chairman, in other words, the legislature could remove all jurisdiction from the probate court?

CHAIRMAN VAN DUSEN: Mr. Everett.

MR. EVERETT: Mr. Chairman, Mr. Krolikowski, yes. There is no question but what it could do that. It has to put those powers someplace. However, it is a little illogical to think that the legislature for some reason would transfer them elsewhere. However, they would have the power to do it. There is no question about it.

MR. KROLIKOWSKI: Mr. Chairman, then the probate court does not have constitutional status?

MR. EVERETT: Mr. Chairman, Mr. Krolikowski, of course it has constitutional status, and so does the circuit court. And if you will read the provisions which we have adopted for the circuit court, the legislature, in theory at least, can take these powers from the general trial powers in the circuit court, because we adopted the language that it shall have original jurisdiction except as otherwise provided by law. I don't remember the exact language, but the legislature can control this factor. Now, the legislature could, therefore, abolish both courts, but this is so ridiculous — that we would go along without any trial court in the state of Michigan — that I don't think this is a strong argument against permitting the creation some day or another of a family court if one seems advisable.

CHAIRMAN VAN DUSEN: Mr. Krolikowski.

MR. KROLIKOWSKI: I don't think I follow your analogy. Are you telling me that all the jurisdiction that is presently lodged in the circuit court could be removed by the legislature as is true in the probate court article? I don't think this applies to its appellate jurisdiction. You are right when you say that it applies to its original jurisdiction.

CHAIRMAN VAN DUSEN: Mr. Everett.

MR. EVERETT: Mr. Chairman, Mr. Krolikowski, section c of Committee Proposal 93 which we adopted says this, "Circuit courts shall have original jurisdiction in all matters not prohibited by law." The legislature could prohibit it from having any single bit of original jurisdiction. Then we go on to say it shall have "appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law." The legislature could provide another method. So it could, in theory, do away with the circuit courts. Now, we recognize this, but we also recognize they aren't going to do it. They could leave us without any trial court if they wanted to, but that still is no reason for us not to consider whether at some time in the future this constitution should not be flexible enough to permit a different method of handling juveniles.

CHAIRMAN VAN DUSEN: Mr. Krolikowski, do you desire to proceed further?

MR. KROLIKOWSKI: I would just like to state, Mr. Everett, that you didn't continue reading that article, because if you read further, there are clauses which allow the circuit court to issue prerogative and remedial writs, and this would not be within the purview of the legislature for abolition, so therefore the circuit court will retain its constitutional status notwithstanding the action of the legislature, but the probate court can be victim of the legislature.

MR. EVERETT: I stand corrected. The circuit court could issue writs and do nothing else if the legislature wanted it to do that.

CHAIRMAN VAN DUSEN: Mr. Faxon.

MR. FAXON: Mr. Chairman, I have a parliamentary inquiry. On February 15 the convention passed a motion with regard to a recess at approximately 3:40. I should like to ask the intention of the Chair with regard to this procedure.

CHAIRMAN VAN DUSEN: Mr. Faxon, the Chair understands the resolution to provide that the recess is in the discretion of the Chair. The Chair is advised by the chairman and vice chairman of the committee on judicial branch that it is their intention to move that the committee rise this afternoon shortly after 4:30. The Chair has therefore exercised its discretion against interrupting the proceedings of the committee of the whole for a recess. The Chair simply calls to the attention of the committee that it has noted that a number of delegates have availed themselves of the opportunity to enjoy private recess. (laughter)

Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, I would just like to suggest to the delegates from Wayne and the more populous counties that the arguments you so ably make concerning juvenile jurisdiction perhaps ought to be extended, too, to the rest of the counties of the state. It seems to me your eyes are particularly upon the situation in your own counties where you have most adequate facilities for the handling of juveniles. I wish some of you could visit some of our probate courts outstate where the probate judge is the only officer of the court and where the probate judge is so inept, so unqualified that that is the last place that I would want my child to appear.

There is a possibility of setting up some sort of district, some sort of court where we could assure the children of those areas of the sort of benefit that the children of your area

now receive. I could show you counties in the northern part of the state where the only hope the child has of receiving proper clinical services, psychiatric services, is to get before the circuit judge of that circuit. Our child guidance clinics, if we have any at all, are organized on a multicounty basis. I know probate judges who would refuse to refer any child to such a clinic.

This is a statewide constitution that we are attempting to adopt. To suggest that there is going to be any change in the excellent facilities that the big counties now provide is purely ridiculous. No legislature would ever tamper with the facilities that you have set up. But the opportunity to extend that kind of service to the rest of the state would require some such statement as the committee proposes. The probate courts in some of the outstate areas simply couldn't provide that kind of service on its own. It would have to be done by a combination, a combining of probate courts or some different type of court.

Now, would you bar the rest of the state from enjoying the kind of facilities for the care of juveniles that you presently enjoy?

CHAIRMAN VAN DUSEN: Judge Dehnke.

MR. DEHNKE: Mr. Chairman and delegates, it seems to me this discussion can possibly be simplified. Everybody seems to be agreed that juvenile delinquents and dependents ought not to be tried in an adversary court or in a court of general criminal jurisdiction. The difficulty seems to be that if you do take this language out "except as otherwise provided by law" you make it possible for the legislature to confer jurisdiction over this type of case on some other court of the type that I have mentioned. If you don't take it out, then you stand in the way of permitting the legislature to pass such an act as a family court would involve, because then it could be said that the constitution confers jurisdiction over juvenile delinquents and dependents upon the probate court, which the legislature could not change.

I have thought about a substitute which I think would take care of that, drawn up on short consideration. It no doubt has some defects, but the substance of the substitute would be to strike out this language "except as otherwise provided by law" and substitute for it the following: "provided that such last mentioned jurisdiction may be vested in any special court created by the legislature with jurisdiction confined to family or domestic affairs or problems."

I merely throw that in at the present time. I haven't sent the amendment to the desk as yet because I would like to have the delegates on one side and the other of this discussion give it some consideration with the possibility in mind that that may solve the problem.

CHAIRMAN VAN DUSEN: Mrs. Judd.

MRS. JUDD: Mr. Chairman, members of the committee, we have — most of us, I think — learned from social workers and court workers and from citizens who have worked very hard to improve juvenile court situations that a family may have 6 different judicial agencies treating its problems at the same time. I think this fact accounts for the flood of letters that perhaps many of us have had from just ordinary folks back home who have learned either through personal experience or experience of their friends how dreadful it is to have these problems fragmented among so many different agencies. On the other hand, we also have been receiving letters from probate judges on the other side of the problem. This raises some questions. What has become of Mr. Ford? I would like to ask him some questions, Mr. Chairman.

CHAIRMAN VAN DUSEN: Mr. Ford.

MRS. JUDD: Are you there? I took this microphone so as to leave that one for you. Mr. Chairman, Mr. Ford stated in his first presentation that some people have come to the conclusion that a family court can be established without a constitutional change. I wonder if you could identify the people or the group that you were referring to.

CHAIRMAN VAN DUSEN: Mr. Ford.

MR. FORD: Well, I am one of them. I would say that the other 2 are members of the subcommittee on family courts of the family law committee of the state bar. I am one of the 3 members. Judge Conlin from Ann Arbor is the second, and Mr. Morton Pierson, who is the number 2 man in the friend of the court's office in the county of Wayne is the third. On the basis of all the suggestions, we have tried to come up with some new kind of court, and I can't say that we have come to this as an official conclusion, but we seem constrained toward the conclusion that using the present court structure would be the more adequate remedy.

MRS. JUDD: Could you tell me how long ago this was?

MR. FORD: This is still going on, as a matter of fact.

MRS. JUDD: Still going on. Secondly, you quoted a good deal of testimony. I wonder if you had any testimony from people other than probate judges who wanted to keep the juvenile jurisdiction in the probate courts.

CHAIRMAN VAN DUSEN: Mr. Ford.

MR. FORD: You are talking about before the judicial committee?

MRS. JUDD: I think that is what you were talking about.

MR. FORD: I don't know of anyone other than judges or people connected with the courts who appeared on any aspect of this before the committee either for or against a family court. Although there was correspondence, as I said, the correspondence does not indicate a preference for this being a new court.

There was one thing perhaps, Mrs. Judd, that is confusing about this, and that is that the committee has already decided it wants a 5 tier system. Now, if we want to go to a 6 tier system I would have absolutely no objection to creating a sixth court and calling it a family court or a juvenile court or, as in New York, a children's court, but immediately you can see that if you look at the state now, there is only one full time juvenile judge in the whole state of Michigan. Now, what hope is there going to be that the counties who can't even get lawyers for probate judges are going to be able to get not only a lawyer for a probate judge but in addition a lawyer or social worker for the family court?

MRS. JUDD: Mr. Chairman, Mr. Ford is getting off my question.

MR. FORD: Well, that is the risk you take when you ask a rhetorical question.

MRS. JUDD: I know it. (laughter)

CHAIRMAN VAN DUSEN: Mr. Ford, see if you can return to the question, if possible.

MRS. JUDD: Well, I think he has answered my question that the testimony in favor of keeping the juvenile jurisdiction in the probate court comes entirely from probate judges.

Third, you indicated that it might be possible to set up a family court without constitutional change. I would like to ask, Mr. Chairman, of Mr. Ford if you wouldn't have to reexamine the jurisdictional provisions with respect to the circuit court?

MR. FORD: No, not at all. I assume when we are talking about a family court, when you said that there are some families that have several agencies concerned with them, we would not be amalgamating any of the agencies into the family court. We would be only amalgamating the court functions. Now, there are 3 courts that deal with family problems presently. First, you have the municipal, justice, or in Detroit, the recorder's court which deals with the situation where the father, for example, is not supporting his family and he is charged with being a disorderly person. This is a criminal proceeding. Then you have the problem with the unwed mother which is part of the function, we think, because it is part of the family problem. You have the divorce problem and all of the problems that go with it, problems of reconciliation, child care, custody and so on, which is in the circuit court. And then in the probate court you have the question of parental rights. The court has, as a matter of fact, the power to sever the rights, and it handles things like adoptions, guardianships, commitment of the kind of children that Martin was talking about, as well as the so called juvenile offender, and then there are just the plain neglected children. There had to be a place to find an order to determine their future, so that is done in the probate court. But all of these functions in the 3 courts reside there because of a statute that puts them there. Now, a divorce

is not a common law remedy. It wouldn't exist in common law, and contrary to what has been indicated here, what the constitution actually does is say that the circuit court has all common law general trial jurisdiction unless modified by the legislature. So the legislature could provide, if it felt, for example, that a family court should try juveniles in the same court that hears divorce cases.

MRS. JUDD: In other words, you think that the only way that you could set up a family court without changing the constitution would be to make the probate court the family court?

MR. FORD: Yes. In Wayne county, for example, we have 1 judge who doesn't sit in the same building as the rest of the probate judges. He sits in the juvenile court full time. All of the procedures and everything that goes on in that court is entirely different than what happens in the other courthouse. Now, conceivably we could add another judge and put him out there in the juvenile court and then add to his duties item by item until you had what would be called a family court. This is probably the easiest way to do it here, and I don't know whether other counties might prefer taking the juvenile jurisdiction away from the probate court because they are too busy, but we had no such testimony.

MRS. JUDD: Thank you very much, Mr. Ford. Mr. Chairman, it seems to me that one of the main problems here that hasn't been talked about very much, that I understand the tenor of this whole judicial article is, is in the direction of establishing a unified court system, and it seems to me we would have to be very careful that any arrangements we make for a family court would not become a splinter court but could be integrated with the entire system. This is one of the reasons it seems to me important that we don't attempt to set up any specific provisions in the constitution, but that we do leave a flexible framework, simply removing the obstruction, which is the constitutional provision putting it in the probate court and therefore leave it to the legislature. Mr. Ford spoke of the bar association committee on family law. I find in their 1959 report that they say:

> Family court. Our subcommittee on the family court spent practically all of the year developing a method which would provide a single integrated tribunal with jurisdiction over all major types of litigation involving the family. They have consulted with various experts in the field and have concluded that the establishment of a family court must be done by constitutional amendment.

Now, perhaps some of the lawyers have been changing their minds since that time, but that was the opinion of the committee in '59.

I would like to indicate that we are today trying to face up to problems that are different from those in 1908 when this was first established. Since that time we have seen a tremendous population explosion, a terrific increase in the problems of family life in our urban areas, and also a great development of sociology and psychiatry and the techniques of handling these problems so that we need much more technical help in handling much more serious problems. Now, we can't foresee changes in the next 50 years. All we can be sure of is that these changes are going to continue and that probably family life in our urban areas is going to become more and more serious, and this is why I agree with Mr. Everett and Mr. Higgs that it would be absolutely tragic for us to try to set up anything frozen in the constitution today. I think that the committee proposal is an excellent one for the purposes of the next 50 years.

CHAIRMAN VAN DUSEN: Mr. Everett.

MR. EVERETT: Mr. Chairman, I appreciate Mrs. Judd's agreeing with me, but I guess maybe now she will disagree with me because I am inclined to think Judge Dehnke has given us a pretty good solution. All of us want to avoid this problem of letting the children's cases be tried in criminal courts. I don't think the problem is there. I can't conceive of the legislature doing it. But if there is any question, I think we ought to say so. And incidentally, as to the power of the legislature now to create family courts or domestic relations courts, the blue book which we all have under article VII, section 13 of the present constitution, one of the footnotes or annotations says:

> Public Acts of 1913, 186, creating a court of domestic relations in counties of 250,000 or over was unconstitutional in depriving probate courts of their constitutional jurisdiction over juvenile delinquents and dependents in certain cases. Attorney General versus Lacey, 180 Michigan 329.

I don't think there is any question but what the present constitutional provisions, if we retain them, will prevent the creation of this court. As many of us have indicated, we have some hesitancy as to whether it ought to be created but we don't want to close the door to it, and if Judge Dehnke's suggestion will end the discussion — and to me it would certainly be acceptable although I can only speak as an individual, not for the committee — then perhaps we can move on. But if it is not acceptable to others, of course maybe we can't too.

CHAIRMAN VAN DUSEN: Dr. Nord.

MR. NORD: Mr. Chairman, I support the minority report amendment, although I do agree with Mr. Everett and Judge Dehnke that perhaps something can be done to improve that. But anyway, what we have before us at the moment is the minority report which suggests that we strike the words "except as otherwise provided by law." I think we should strike those words and then if we want to put something else in the constitution, we should do that in addition. But we can strike these words now anyway if we agree that they should be stricken.

Now, it is probably unfortunate that the issue has arisen in this roundabout way, but there is a very significant and basic issue in here which we should face. That is the question, as has been mentioned by a number of people, of whether we should have a constitutional guarantee of some sort that a child cannot be tried and punished as a criminal. I recognize that we don't have it in the constitution in very vigorous form even with the striking of these words, but it is in there anyway because the probate court is not conceived of as having criminal jurisdiction.

I think it would be better if we would settle this problem in much more detail somewhere else. Perhaps Judge Dehnke's suggestion isn't even good enough. But in any event, we should at least strike these words to make sure that a child can never be tried as a criminal. Now, I say that this is a constitutional matter and not something that should be left to law, and that is why I say we should strike the words "except as otherwise provided by law". This is a very basic right. I believe it is more basic than we have ever really conceived of, and the reason I say that is that in our system of law a child does not have the right to participate in the making of the law. He doesn't vote until he is 21 years old, and I understand there is a proposal from the declaration of rights committee to continue that. Now, assuming that that will be continued, there you have a situation in which persons who happen to be young persons below the age of 21 have no right to participate in the making of the laws and yet they can be punished as criminals. They could even, according to that, be sentenced to life imprisonment.

I recognize that, as I said before, the words before us don't completely solve that problem. They miss it by at least 50 per cent. At the present time the juvenile jurisdiction extends only up to the age of 17, and the proposal to reduce the voting age was only down to 19, and between 17 and 19 there is a gray area in which the juvenile court can take jurisdiction under present statutes. There is no question we haven't completely matched these 2 principles. There is a gap no matter how we do it under all the present proposals.

It would seem to me, although you can't fully discuss it at this point, that we ought to tackle the problem head on and solve it and reduce the voting age down to 19 and change the age to full adult powers to 19. They ought to be the same. But since that isn't before us at the present time and all that is before us is this, not to make this gap any bigger, then it seems to me we ought to adhere to the present system until we are ready to make the solution better. There is a defect, as I say, in all of the proposals we have before us or are

expected to have before us. There is some defect between principle and practice as to the right of a person who is judged to be a criminal to make the law. There is a defect. All I am saying is, let's not make the defect any bigger. If we can make it smaller or eliminate it, we should, and if we cannot, we should not make it any worse.

The argument has been made that we should have flexibility. "Flexibility" is my favorite word, though we have to recognize there is a limit to that, and the limit is when we come to a constitutional or a basic right. We don't want basic rights to be left in a flexible condition. They should be left in an inflexible condition. That is the only reason we have a constitution in the first place. And if I am correct — and I believe many agree — that this is a basic right of a person, it should not be left in a flexible condition.

For these reasons I am in support of the minority report amendment, and until we get a better version, I would say let's strike those words.

CHAIRMAN VAN DUSEN: Father Dade.

MR. DADE: Mr. Chairman, I would like to ask Mr. Ford a question.

CHAIRMAN VAN DUSEN: If the gentleman cares to answer.

MR. DADE: And before I ask Mr. Ford the question, I would like to make a statement. The statement first is, Mr. Ford, as a minister, I certainly couldn't sit here, with experience in the juvenile court and knowing of youngsters who have been treated not as criminals but as youngsters who had made mistakes, and seeing in my memory these same youngsters now responsible citizens in the community, and not support the continuation of juvenile courts because of the sympathetic understanding, the skill therein, and I could not, being the president of the Wayne county training school board, go without supporting it because of the sympathetic consideration of those who are mentally disturbed and mentally handicapped.

Now, Mr. Ford, my dilemma is this: I would like to support the minority, but I want to support it to the end, sir, that there be a provision that youngsters shall never be treated in adversary courts. At the same time, out of a wide experience, I have to stand and support the hope of a family court. Now, how do I resolve this dilemma?

CHAIRMAN VAN DUSEN: Mr. Ford.

MR. FORD: Reverend Dade, this is the dilemma that has faced the bar committee for a long time.

MR. DADE: May I interrupt with this one question. Would this dilemma be taken away if this provision were inserted that nonadults should be tried in nonadult courts?

CHAIRMAN VAN DUSEN: Mr. Ford.

MR. FORD: Reverend, it isn't just the problem of adult courts; it is the problem of the kind of procedure which obtains in a court which customarily handles adversary proceedings and criminal proceedings as contrasted with the type of procedure, very informal and more human, that pertains to the entire function of the probate court. Very few of the probate court's activities are truly adversary in nature.

CHAIRMAN VAN DUSEN: Father Dade.

MR. DADE: But isn't it true that the one advantage of the juvenile court is that there are no lawyers? (laughter)

CHAIRMAN VAN DUSEN: You may be referring to heaven, Father Dade. (laughter) Mr. Ford.

MR. FORD: Reverend, you may be inadvertently referring to the thing that bothers the committee that is made up all of lawyers, and that is that as long as we keep the divorce practice separated from the rest of the juvenile practice, we keep the lawyers from meddling with this system. But a very, very small percentage of the cases that are handled in the juvenile court have lawyers involved in them and they are not needed over there — and I hope I am not treading on the toes of somebody who considers himself a juvenile specialist — because of the way the cases are handled, and this is very fortunate.

What we are afraid of is, for example, if we set up a family court and say that the same court that handles juvenile matters ought to handle divorce cases, then we get right back into the same sort of a procedure where we have lawyers over there arguing over property rights and which of the parents was the first to commit the sin and so on, and this is not the kind of an atmosphere that we want juvenile matters handled in.

MR. DADE: Thank you.

CHAIRMAN VAN DUSEN: Mrs. Elliott.

MRS. DAISY ELLIOTT: Mr. Chairman and members of this committee, as a nonlawyer and a layman of this convention, I cannot believe that the intention of the judicial committee is to take away the bill of rights from the juveniles. At this point the lawyers here have thoroughly convinced me that words "except as otherwise provided by law" will do just that. We should keep the constitutional guarantee that juveniles will not be tried in adversary and adult criminal courts. If the legislature in its wisdom wants to enlarge the scope of jurisdiction of the probate court, it can do so without the words "except as otherwise provided by law."

I would urge you to support the minority report amendment.

CHAIRMAN VAN DUSEN: Mrs. Koeze.

MRS. KOEZE: Mr. Chairman, I am trembling, as you know, before this microphone. Most of you know that I am the mother of 5 children and deeply concerned, and only by the grace of God did my kids never land in a court. But I am worried about the grandkids that are coming up. I am not so sure about them. However, I want you to know that I am in favor of a family court. But after listening to the testimony this afternoon, I am sure I can't solve it and I am a little bit concerned that lawyers couldn't solve this problem. I wish somebody would help me with my decision.

CHAIRMAN VAN DUSEN: Mr. Higgs.

MR. HIGGS: Mr. Chairman and Delegate Koeze, with a little fear and trembling, I will try again. I think this is the direction that we really mean to go. There has been one thought suggested that we did not consider — I think we considered in the committee every other argument that has been raised here today — and Delegate Nord raised that question, and as far as I am concerned, I think the only amendment, and I don't know that it should be here, but the only provision that I think we should consider at this time — and if Delegate Nord wants to propose it, why, I would certainly concur — is that children not be tried as adults. Now, that much I think, if he would like to incorporate that in the bill of rights, I have no quarrel with.

However, as to any other provision, I think I have examined every proposed amendment that is circulating on the floor and I feel that Delegate Judd touched upon the point involved there, that we are trying to develop a unified court structure. I think certainly the probate judges are most concerned in this matter, and I am a little disturbed because of the fact that this might be created as a division of the circuit court. If that is the wise and right thing to do, it should be done. I would like to leave it to the discretion of the legislature to do it. Now, the circuit court is an adversary court and it is also a criminal court, and I don't see any reason why a family court could not be established as a division of that court with a judge who is solely designated to preside in that division. It is a special court but it would be a division of the circuit court. He would not be a judge that would be hearing other cases.

But the minute you start talking about setting this up in a nonadversary court, that would preclude the probate court itself from handling these matters, and if you speak about handling these matters in a noncriminal court, that would preclude the possibility of bringing in the parent who may be an adult delinquent in matters of support of his family whose delinquency in that regard, being criminal, should be brought to the attention of the judge who has before him also the matter of the dependent and neglected child. In other words, I would like that judge to have the full power and authority in those areas to handle the whole aspect of the problem.

Now, this is fine in the largest cities but not necessarily fine in the smallest areas. And I think Delegate Habermehl touched upon the problem in the real small counties. Do you realize

how small some of our counties are? We have 5 counties that are under 5,000. We have 13 that are between 5,000 and 10,000. That is 18 that are under 10,000 in population. We have one county in Michigan that has 2,400 people, and that county has a probate judge. The amount of juvenile work that he would handle, the amount of juveniles that are in the whole county would be very few indeed. And as Delegate Habermehl has pointed out, you don't get highly qualified people sitting as probate judges in those areas, and they are working all alone, without any assistance, without any requirement that they themselves be qualified, that they be trained or anything else. And they have to work with all of these problems all alone.

How much better it would be if we could give the legislature the flexibility necessary to accommodate the problems in those very small counties. In a community of 2,400 people I can conceive that you might have a county court or a probate court combining the jurisdiction of the circuit court commissioner and possibly the JP in such a small county.

Judge Baird said that in his court when he has a juvenile matter, he can schedule a hearing on that at a time when there is no other business coming into the court, an entirely separate proceeding without anybody else being around. It is not a problem, he says, to physically separate the hearing in that kind of a matter.

I would have no quarrel whatsoever in a right being established in the constitution that children 17 years of age and under not be tried as adults, and I don't think the legislature today or any time in the future is ever going to regress to the point where they are going to treat our children in any way except possibly in a more enlightened and advanced way than we ever have in the past.

CHAIRMAN VAN DUSEN: Mr. Ford. Mr. Ford passes. Mr. Martin.

MR. MARTIN: Mr. Chairman, this is, as is obvious from the discussion, a very important matter to a great many people all over the state of Michigan. We made a tremendous step forward back in 1908 when we created a court which had exclusive jurisdiction over children, and it is one of the reasons why we have moved forward at least in certain parts of Michigan in the development of a highly competent and well staffed court for the handling of juvenile problems.

I have been working on some of these problems for a number of years as chairman of the Michigan crime and delinquency council, and we have this primary concern with the problems of children and how they shall be handled, and we don't want to see something done here that we are going to be sorry for. We don't want to see us regress from the enormously important step that we took in 1908 which has been responsible for what we have now.

Now, one of the problems is that many of these courts are not staffed either with judges that are able to handle the work or with staff which is able to handle the work and a great deal has to be done in that regard, and the proposal of the committee to make the creation of districts possible which can be properly staffed with properly paid judges is very important. But what we are doing with this particular phrase here is to cause concern in everybody's mind all over the state of Michigan who has anything to do with the problems of child welfare, and for that reason it seems to me we have just got to move cautiously.

Mr. Staiger has mentioned the possibility of some wording that might calm some of these fears and Judge Dehnke has made some suggestions. I have thought of some wording that might serve that purpose. But it is pretty nearly impossible to work this out in the manner we are trying to work it out, and for that reason, if the committee were willing, Mr. Chairman, I would like to move that this particular section or this amendment be passed for the time being to give us an opportunity to see if we can work out some language which will not leave everybody in doubt and concerned about what we are doing on this particular point.

CHAIRMAN VAN DUSEN: Do you so move, Mr. Martin, or do you desire the position of the committee?

MR. MARTIN: I didn't understand.

CHAIRMAN VAN DUSEN: From your statement, Mr. Martin, the Chair was in doubt as to whether you so moved or whether you inquired of the committee.

MR. MARTIN: I inquired of the committee. I would like to be cooperating with them instead of making it difficult. Mr. Everett nods his head. I take it perhaps that means assent. Mr. Danhof?

MR. DANHOF: Well, Mr. Martin, I can only tell you that the committee worked long and hard with it. I think it simply develops down — I suppose the question is on the motion of Mr. Martin. I suppose I should confine my remarks to that.

CHAIRMAN VAN DUSEN: The Chair is not sure, Mr. Danhof, that Mr. Martin has made a motion yet.

MR. MARTIN: In order to make it clear, I will make it a motion, Mr. Chairman.

CHAIRMAN VAN DUSEN: Mr. Martin moves that further consideration of the pending amendment be passed temporarily.

MR. DANHOF: Mr. Chairman, may I inquire as to how many speakers the Chair has listed?

CHAIRMAN VAN DUSEN: The Chair has listed 6 speakers, Mr. Danhof, including yourself.

MR. LAWRENCE: Mr. Chairman. Mr. Chairman. Mr. Chairman.

CHAIRMAN VAN DUSEN: Mr. Lawrence, for what purpose does the gentleman rise?

MR. LAWRENCE: Is it in order to speak on Mr. Martin's motion?

CHAIRMAN VAN DUSEN: It is. Mr. Danhof currently has the floor.

MR. DANHOF: I will yield to Mr. Lawrence.

CHAIRMAN VAN DUSEN: Mr. Danhof yields to Mr. Lawrence on the Martin motion.

MR. LAWRENCE: I would oppose the motion for this reason: there will be an opportunity to have further consideration. We have spent considerable time on this. Let me speak to the nonlawyers in the committee. I come from a county of 172,000 which I think is a medium sized county. On its east is Wayne county.

CHAIRMAN VAN DUSEN: Mr. Lawrence, would you please confine your remarks to the pending motion, which is that the amendment be passed temporarily.

MR. LAWRENCE: I was about to do it.

CHAIRMAN VAN DUSEN: Your preface left the Chair in doubt. (laughter)

MR. LAWRENCE: And on the north is a smaller county, Livingston county. The situation in those 3 counties is entirely different, and it seems to me that the committee report as it has come out giving the legislature the right to enact statutes that will give credence to those different situations is the proper way to handle it, and therefore there is nothing to be gained by passing the matter at this time.

Truly the situation in Wayne is different than in Washtenaw and in Washtenaw it is different than in Livingston, and the thing to do, as I see it, would be to pass the committee report — that is, to vote on it, and if anything better can be found later, then we will have ample opportunity to consider it.

CHAIRMAN VAN DUSEN: Mr. Barthwell, do you desire to be recognized on the Martin motion?

MR. BARTHWELL: Yes, sir, Mr. Chairman. Mr. Chairman and fellow delegates, I would like to ask the maker of the motion a question through the Chair, if I may. When he says "so that we can have opportunity to work it out," I want to know who the "we" are, because I read in the paper last night on the other article that we passed so it could be worked out that the caucus appointed a committee to work it out. Now, I would just like to know if I am a delegate to this convention or if I am just sitting here to wait until the caucus decides what is to be done in the convention. (laughter)

CHAIRMAN VAN DUSEN: If the gentleman cares to answer. Mr. Martin.

MR. MARTIN: Mr. Chairman, I wasn't thinking of this as a political matter. I was thinking of it only as a matter for those of us who were interested in child welfare, and I would be happy to work on it with any of the people who have indicated their interest here today in this discussion.

MR. DANHOF: Mr. Chairman.

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Mr. Chairman, if I might, maybe Mr. Martin would do this — in view of the hour; in view of the fact that you have 6 speakers on the list; it is obvious we would not get to a vote for some time — if Mr. Martin would withdraw the motion, I would move that the committee arise. Perhaps with Mr. Martin, Mr. Everett, Mr. Higgs and Judge Dehnke, somebody might arrive at some language. If we could, we can have an amendment tomorrow. If not, we will go on.

MR. MARTIN: I will be happy to withdraw the motion, Mr. Chairman.

CHAIRMAN VAN DUSEN: Mr. Martin's motion is withdrawn. Mr. Danhof.

MR. DANHOF: In that case, Mr. Chairman, I move that the committee do now rise.

CHAIRMAN VAN DUSEN: Mr. Danhof moves that the committee do now rise. Those in favor of the motion will say aye. Those opposed will say no.

The motion prevails. The committee will now rise.

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

PRESIDENT NISBET: The convention will please be in order. The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, the committee of the whole has had under consideration an amendment to a proposal of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 94,** A proposal pertaining to the probate court; has considered one amendment thereto; has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Are there any announcements?

SECRETARY CHASE: This announcement of interest to all of the delegates: please be sure to return your photographic proofs to the studio representatives in room G before 5:00 p.m. today. If you were unable to keep your original appointment, please go in at your convenience before 5:00 today.

This announcement also of interest to all of the delegates. As most of you know, the wives of the delegates have been presented with an opportunity to become acquainted with each other and a luncheon has been arranged for Tuesday, March 13, at the Jack Tar Hotel. Would you please remind your respective spouses of this and that their reservations should be turned in rather soon. Turn them in either to Mrs. Tucker in the president's office or to Mrs. Tubbs.

There will be a meeting of the committee on style and drafting in room K at 8:00 o'clock this evening.

The committee on rules and resolutions has been scheduled to meet Friday during the noon recess.

Mr. Nord has filed a resolution for introduction.

PRESIDENT NISBET: Without objection, we will return to the order of **motions and resolutions.**

SECRETARY CHASE: Mr. Nord offers **Resolution 81,** A resolution relative to the absence of delegates during committee of the whole.

Following is Resolution 81 as offered:

Whereas, It sometimes happens that during the course of debate in committee of the whole, a substantial number of delegates are absent from the floor and do not attend the debate, but nevertheless are later summoned to the floor to vote without having heard the reasons offered on each side in the debate; and

Whereas, Such votes are not based on the reasons set forth in the debate, and may in fact not be based on any reasons whatever; now therefore be it

Resolved, That if any delegate shall leave the floor of the convention during sitting of the committee of the whole, he shall thereafter be excluded from the floor until such time as a vote is taken on the issue then pending, except if he shall have been excused by the chairman before having left the floor.

PRESIDENT NISBET: Referred to the committee on rules and resolutions.

SECRETARY CHASE: We have the following requests for leave of absence: Mr. Nisbet asks to be excused from the session of Friday for the purpose of speaking in Grand Rapids and Muskegon on matters relative to the convention; Father Dade requests to be excused from the session of next Monday, March 4; Mr. Norris wishes to be excused from the morning session of Friday.

PRESIDENT NISBET: Without objection, the excuses are granted. Mrs. Hatcher.

MRS. HATCHER: Mr. President, I would just like to rise on a personal interest note to say that I certainly appreciate the invitation from the wives of the delegates to con con, and I wonder if the husbands are also invited to this luncheon. (laughter)

PRESIDENT NISBET: I understand this is a ladies' meeting. Judge Gadola.

MR. GADOLA: March came in like a lion. In this convention we acted accordingly. I hope that when it goes out as a lamb, that the lion and the lamb will lie down together in harmony for the good of the people of the state of Michigan. (laughter and applause)

PRESIDENT NISBET: Father Dade is recognized.

MR. DADE: I believe this is Mr. Chase's forty-third wedding anniversary. On behalf of all the men, I want to salute a good man and congratulate him and felicitate a wonderful lady. (applause)

SECRETARY CHASE: Thank you, Father Dade. It's a puzzle to me how she has put up with my idiosyncrasies for all of 43 years.

PRESIDENT NISBET: I was going to say Mr. Chase must be a good man — for 43 years. (laughter) Mr. Cudlip.

MR. CUDLIP: Mr. President, may these remarks be recorded in the journal? (laughter)

PRESIDENT NISBET: Without objection, they will be so recorded. (laughter)

The Chair recognizes Mr. McCauley.

MR. McCAULEY: Mr. President and delegates, as the famous English author, Thomas Babbington McCauley, once said, if you can keep your head amongst this confusion while others are losing theirs, you do not understand the problem. (laughter)

I move we adjourn.

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

We are adjourned until 9:30 tomorrow morning.

[Whereupon, at 4:35 o'clock p.m., the convention adjourned until 9:30 o'clock a.m. Friday, March 2, 1962.]

NINETY-FIRST DAY

Friday, March 2, 1962, 9:30 o'clock a.m.

PROCEEDINGS

VICE PRESIDENT HUTCHINSON: The convention will **come to order.**

The **invocation** today will be delivered by the son of one of our delegates, the son of Mr. Haskill, Mr. William E. Haskill, minister and a graduate of Bob Jones University.

MR. HASKILL: Our gracious heavenly Father, we thank Thee again today for the Lord Jesus Christ. We thank Thee for the great many blessings Thou has bestowed upon us thus far. We pray now for this convention as it comes to order and seeks to work out the problems and bring to the state a new constitution. We pray that Thou will grant to each one the wisdom and the understanding that he needs to do his part and we ask that personal interests will be laid aside as the constitution is drawn up for the benefit and welfare of all in this state. For we ask it in Jesus' name. Amen.

VICE PRESIDENT HUTCHINSON: The **roll call** will be taken by the secretary. All those present will vote aye. Have you all voted? If so, the secretary will lock the machine and take the roll.

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

Absent with leave: Miss Hart, Mrs. Koeze, Messrs. Marshall, Mosier, Nisbet, Norris and Romney.

Absent without leave: None.

[During the proceedings the following delegates entered the chamber and took their seats: Messrs. Norris and Romney.]

VICE PRESIDENT HUTCHINSON: Reports of standing committees.

SECRETARY CHASE: No committee reports, Mr. President.

VICE PRESIDENT HUTCHINSON: Communications from state officers.

SECRETARY CHASE: None.

VICE PRESIDENT HUTCHINSON: Second reading of proposals.

SECRETARY CHASE: Nothing on that calendar for today.

VICE PRESIDENT HUTCHINSON: Motions and resolutions.

SECRETARY CHASE: No resolutions on file.

VICE PRESIDENT HUTCHINSON: Unfinished business.

SECRETARY CHASE: None.

VICE PRESIDENT HUTCHINSON: Special orders of the day.

SECRETARY CHASE: No special orders.

VICE PRESIDENT HUTCHINSON: **General orders of the day.** The delegate from Oakland, Mr. Van Dusen.

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

VICE PRESIDENT HUTCHINSON: The question is on the motion. All those in favor say aye; opposed will say no.

The motion prevails. The committee will convene and the delegate from Oakland, Mr. Van Dusen, will preside.

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

CHAIRMAN VAN DUSEN: The committee will be in order. When the committee of the whole last sat, it had under consideration **Committee Proposal 94,** reported by the committee on judicial branch, dealing with the organization and powers of the probate courts of the state of Michigan.

For last previous action by the committee of the whole on Committee Proposal 94, see above, page 1393.

The question is on a minority report amendment thereto, offered by Messrs. Ford, Garvin, Bledsoe, Ostrow, Krolikowski and Barthwell, on which the Chair had several delegates seeking recognition.

[The amendment was again read by the secretary. For text, see above, page 1395.]

Mr. Danhof, do you now seek recognition on the amendment?

MR. DANHOF: Not at this time.

CHAIRMAN VAN DUSEN: Does Mr. Lawrence seek recognition at this time? Does Mr. McAllister seek recognition at this time? The gentleman from Bad Axe, Mr. McAllister, speaking on the Ford amendment to section a of Committee Proposal 94.

MR. McALLISTER: Mr. Chairman and fellow delegates, I just want to explain my position in this matter. The probate judges in my area are for the minority report amendment, and Judge James Lincoln of the probate court in Wayne county is for the minority report amendment. He is a long time friend of mine, and a man who has, in my opinion, extremely good judgment. I promised him I would support this minority report amendment, and that is the reason that I am voting in the manner that I am.

CHAIRMAN VAN DUSEN: Mr. Martin, do you seek recognition on the amendment?

MR. MARTIN: Mr. Chairman, I had an opportunity to confer with various people who were discussing this on the floor yesterday, and also to check it with some of the people who are working on these things as citizens, and after talking also with Mr. Everett and reviewing the case which he mentioned, I am satisfied that under the language of the present constitution, but without this proviso, "except as otherwise provided by law", the legislature would have authority to establish a family court in the probate court if it so desired.

I am not sold on the idea of a family court, and I am not recommending that that be done, but they would have the authority to do that if they wished. For that reason — the one thing that we don't want to see done is to have the juvenile jurisdiction transferred out of the probate court and into the circuit court or into some other court — the language of the minority amendment seems, to me, to do what is necessary and, therefore, I want to support the minority amendment and do not want, at this time, to offer any further amendment to that amendment or otherwise.

I hope that the committee will support the minority report amendment, and I am sure that it represents the feeling of all those around the state of Michigan who have been working for many years on these child welfare problems, including the views of all the probate judges.

CHAIRMAN VAN DUSEN: Does the lady from Detroit, Miss McGowan, seek recognition?

MISS McGOWAN: Mr. Chairman and members of the committee, I rise to support the committee report and to ask you to support the committee report, and to vote against the minority report amendment.

The committee, in recommending this provision, did so because it recognized the need of our children with problems and desired to have those problems handled in a separate court in a nonadversary area. The committee left with the legislature the power to change the jurisdiction in the case of delinquent and dependent juveniles. In our committee deliberations we

most assuredly gave much thought to our children and grandchildren who may become delinquent and/or dependent juveniles. Should the legislature decide to create a domestic relations or a family court, this in no way changes our belief that the problems of our delinquent and dependent juveniles should be taken care of in a court of a nonadversary type.

We are all well aware of the fact that delinquent childen need special attention in a court of a nonadversary area. The committee report does not change this thought in any manner. In Detroit, presently, we have many courts and agencies handling the problems pertaining to children. We have the recorder's court, the circuit court, the friend of the court, juvenile court, and a division in the prosecutor's office. The committee proposal simply gives the legislature the power to determine what court will handle family problems, including the problems of delinquent or dependent children.

We would appreciate your support of the committee report. We ask you to be courageous and forward looking and vote yes on the acceptance of the committee report.

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Mr. Chairman and members of the committee, in discussing this particular matter, the committee was well aware of the deep feelings of many people, also the emotional aspects that would arise. But, let me state that the majority deliberated at great length, and reached the conclusion that the legislature would not capriciously or arbitrarily abuse this particular section.

Yesterday, Dr. Nord mentioned that there is a question as to what constitutes a juvenile and, as he well knows, basically this is a person under 21 years of age. Yet, in a case that has been most described here — and that is the juvenile delinquent or the youthful offender of the criminal laws — they are tried as adults in this state at the age of 17. There has never been any doubt but what the legislature has had the authority to define and to set the limits as to what constitutes a juvenile. If it could be 17, it could be 16, and if it could be 16, it could be 15, and if it could be 15, it could be 14.

I submit that if you wish to provide for an adequate program of juvenile rehabilitation, that you pay serious attention to the words of the delegate from Alpena, Mr. Habermehl, for this provision is not aimed solely at the large counties which want to create either a domestic relations court or even a separate family court, but it was our considered opinion that in the sparsely populated areas this would allow for a separate juvenile court, if you want to call it that, and allow the combination of counties to provide for this type of a program. As it now stands, in many of our counties it is impossible to raise the money to provide an adequate staff of facilities.

Lest everybody get the impression that all of the probate judges favor this, the Honorable Gerald Meehan, the probate judge of Oceana county, appeared before our committee, and his exact words were, "The Constitutional Convention of 1908 made a mistake when they froze in this particular provision." This, my friends, is a judge from a county of only about 16,000 or 18,000 people, and he advised and recommended, as strongly as he could, that this particular section be made more flexible and that it be loosened up, so to speak.

Judge Mitchell, appearing before the committee and speaking on behalf of the probate judges association, made this statement:

> Section 13 also provides that the probate court shall have original jurisdiction in all cases of juvenile delinquents and dependents. This provision should be contained in any new constitution. Possibly it should be expanded to provide for a court having jurisdiction over various personal family problems, such as divorce, commitment of the mentally ill and other similar problems.

All of you may have received information, or at least I did — and this is from another group, the national association of social workers — that they entertained and passed, in the meeting of the southwestern chapter of that organization, a recommendation that we remove the present constitutional barriers and leave the way open for establishing courts having original jurisdiction over all matters pertaining to children and families.

Let's look at exactly what the committee did. It did not strip the probate court; it did not emasculate the provision. It granted the constitutional jurisdiction to the probate court. It isn't anything that the legislature has to give. It is something that the probate court has. If you are willing to say that you believe that the legislature will capriciously and without reason and without deliberate judgment just tear this away, then I don't think that you are facing your responsibility. In the first place, the legislature probably will not move on the matter unless there develops particular agitation for a different type of court in some area. They usually have enough to do over there without going around and tearing away the jurisdiction from the probate courts. But visualize, if you will, the hue and cry that would be raised if they did try to remove this capriciously or without reason or without providing a reasonable and adequate substitute.

I feel that there has been a considerable amount of emotion going into this particular article. The question is solely this: are you going to freeze it in so that from now on, for all time this constitution is in, there it is, inflexible and immobile, or do you believe that it should be granted, like we grant the general jursdiction to the circuit court? If you do, then support the particular committee proposal. We felt that this would leave the way open to leave it in the probate court, if that proves the wisest choice, but if there is some other means which is better — and I have had considerable mail, as Mrs. Judd has had, and this comes not from groups but from individuals, most of it. I am not sure that they have the vaguest concept of what a family court might or might not be. Our committee put in 3, 4 months of study, and this is something that is going to take more study, study by the legislature, study by the bar association, study by the social workers in the family service bureaus, and so on, to ascertain if a court is desirable. Then if it is, what type of court to have. I submit, if you freeze it in, you are making it inflexible.

To a statement that I made last night, that we would try to work up some other language, I endeavored, other members of the committee tried, members of the convention gave us suggestions, and by the time you try to work it all around, you come up with such a "provided however" section, that you just can't do it. The committee report is clear.

I have no fear, after all these years that the legislature knows what has happened in the probate court, that there will be any danger derived therefrom. I would strongly urge that you support the committee, and that, above all, we get on and take a vote on this particular matter. I understand there are another 4 or 5 amendments pending on the secretary's desk. Thank you.

CHAIRMAN VAN DUSEN: The lady from Highland Park, Miss Donnelly.

MISS DONNELLY: I rise to support the minority report amendment for various reasons. The one that has impressed me the most is the fact that the individuals who testified or contacted us, who were most concerned with the actual treatment, care and consideration of the delinquents were Judges James Lincoln and Mary Coleman. I think nobody can argue the fact that James Lincoln handles more than any other judge in the state. I would say the most experienced judge in this field feels that this is very vital. If there is an expert that says it is important to keep it in the probate court, I would say that there is probably the most experienced expert we have had. I think his predecessors and those that I have talked to are in accord.

We are, I think, putting a lot of emphasis on the delinquent minors and ignoring the fact that there are other minors too that must be taken care of. Those are the neglected, the abandoned, the abused children. They, themselves, are not criminals or have not gone against the law in any way, but they have just been misled, mistreated. Someone must take care of them, too. I submit that there is one court that has been doing the job, and it is the probate court. It is not an adversary situation.

As an "old maid", with no children and no hopes for grandchildren, I am still not disinterested in child welfare. As a psyche major who, theoretically, should have been most con-

cerned with this in my undergraduate days, I must agree that they have reached, in my opinion, the most intelligent analysis of the proper way to treat children whom we are trying to help for the future, where our strength will lie.

The advocates of a family court seem to be enthralled with the idea of taking the whole family and whatever kind of a mess it has and putting it together. The fact that the husband beats the wife or the wife beats the husband is not the issue, in a sense, of how are you going to take care of the children, primarily. This is a criminal action, and their conduct in that area should not be brought into what we are going to do with the children who are involved. The fact that the circuit court, through the friend of the court, is also involved in this in divorce proceedings, is not primarily the purpose. Certainly, in Wayne county, from the experiences I have had on these instances where we have had trouble with the children, we very readily had Judge Lincoln handle it completely and most effectively.

The argument that the large counties want this, that I heard yesterday, hours ago, is not true, obviously. The counties that have the problem of delinquency, the really serious problem of delinquency, want the probate court to handle it.

The issue about the fact that outstate, in small areas, there isn't time, does not seem to be adequate to my mind, because if we do combine these judges to handle the outstate probate problem, there will be more time for the state employed social worker, or whatever name they give them, to handle it.

The issue is, primarily, do we wish children to be in an adversary position or don't we. What direction do we want to go? In 1908, they went one way. I believe this is the proper way, and I think the only way to keep it proper is to accept this "as otherwise provided by law".

Mr. Danhof's issue about trust the legislature amuses me somewhat, because we couldn't trust the legislature on the court administrator. They created the court administrator, but we couldn't trust them not to take it away. In this instance, the constitution created the juvenile independence in the probate, and now we are going to say we can trust the legislature to not take it away. I think, somewhere along the line, we are going to have to think consistently and make up our minds in which direction we are going. I submit, this is not the time to trust the legislature. If we couldn't trust it on the court administrator which it created, then we surely cannot trust it in this area which was created by the constitution. I urge your support for the minority report amendment.

CHAIRMAN VAN DUSEN: Mr. Baginski.

MR. BAGINSKI: Mr. Chairman, members of the committee, yesterday when I rose to talk to you, I mentioned the fact that juveniles need people who are trained, who are career people, who know their responsibilities in the handling of juveniles. This morning's Free Press, on the second page, tells us about a juvenile who was lost in jail for 11 months. The story here is, this boy, 15, was picked up by the juvenile authorities and placed in the Wayne county youth home, where he was to be examined for possible commitment to an institution. The prosecutor's office came in and, because of the crime that he was accused of, insisted that a waiver be granted, and the boy was turned over to the recorder's court. At recorder's court, they decided that he was well enough mentally to aid counsel in defense, and they proceeded to try him with a sanity commission and, possibly, send him to the Ionia state hospital. In the meantime, his parents came to our court, to the civil part of probate court, filed a petition to have him committed, and our judge committed him to the Ypsilanti state hospital or the Northville state hospital. But, when we mean commitment, we don't mean admission. He was placed on the waiting list. In the meantime, though, he was in jail under the jurisdiction of recorder's court. When the judge and the prosecutor heard that he was committed to an institution for the mentally ill by probate, they immediately dropped their proceedings, but they failed to return Johnny Smith back to the Wayne county youth home, and he is in jail and he has been there for 11 months.

You see what happens when people who are inexperienced in this sort of work, in an adversary court like the criminal court, recorder's court. They are used to handling criminals and things of that sort, and they just let Johnny lay right there in the jail, promptly forgot about him instead of sending him back to the jurisdiction of Judge Lincoln.

These are the things that we are fighting for. Leave this matter in probate, in the juvenile court, under the jurisdiction of people who are trained to handle this sort of a case.

CHAIRMAN VAN DUSEN: Mr. Ford.

MR. FORD: I wasn't going to say any more on this until Bob brought in this recommendation from the southwestern Michigan chapter of the national association of social workers. I think that this is a quick way to demonstrate how much confusion is injected by people who are talking about a family court. In the first place, Mr. Higgs is talking about a family court, and he is talking about something entirely different than Miss McGowan is talking about, because he referred to New York, and in New York they call it a children's court, and in New York, recognizing that you have almost 8 million people in one city, they have a situation whereby they have the manpower and the need and everything else that goes with it, to have a special juvenile court. We call it a juvenile court, they are now going to call it a children's court. They are not going to handle divorce proceedings or criminal proceedings in that children's court. There is talk here about the family court in the nature of a domestic relations court, and that seems to be the concept that this social workers group has. Reading from the letter that Bob alluded to:

> In our work, we become acutely aware of the needs for more adequate judicial service for children of the families in Michigan. We believe that services similar to those now provided in juvenile court in a few counties should be made available throughout the state.

Why is it only provided in a few counties? Is it there because the people in the rest of the counties are insensitive to the needs of children? Not at all.

The inconsistency of this section recommended by the committee is almost inconceivable. If you will look at the majority recommendation for the reason for adopting the first part of section a, you will find that it says:

> We found in many counties of the state that the work load of a probate judge was small and required but a portion of his time.

Further on, it says:

> We have therefore authorized the legislature, and required the legislature on recommendation of the supreme court, either to unite counties into probate districts, somewhat comparable to our circuit courts, or combine the office of probate judge with any judicial office inferior thereto in any county with less than 25,000 population. We believe either alternative will tend toward a better administration of the work of such courts and at the same time reduce the expense of operation.

What they are saying is that the court wherein this function now resides is not busy enough so we are going to start combining them or we are going to give them more duties to perform. They are going to take from the court that is already not busy enough to sustain itself under its present form, a principal, basic, fundamental function of that court, the juvenile function, and create still another court to handle it.

If we start out and look at this from a practical point of view, there is one full time juvenile judge in the state today. The probate court judges are part time juvenile judges. In Wayne county, we have the only judge that devotes his time exclusively to juvenile affairs. Why? Because it is the only county that has the volume and also the facilities to handle this on a full time basis. Surely there are other counties that need it fully as well as Wayne county, but they haven't found it possible to add the extra judge, even though, in adding him, they wouldn't have to justify his existence solely on the basis of this single function. They go on to say in their letter, "Courts in a few counties should be made available throughout

the state," and that "they should not be limited to juvenile delinquents and dependents."

This is the key to where we lawyers, some of us, fall away from these people. "Children and families involved in divorce proceedings are surely entitled to as much consideration." Now, you get to the crux of it. Some of these people who are talking about a family court or a domestic relations court are not talking about a juvenile court that will specialize in the problems of children or dependent children, they are talking about lumping all of the human problems together on the theory that if mother and dad are fighting in a broken home, maybe they ought to lump the children into the whole proceeding. All of you lawyers know that to the extent that it is possible to do so, circuit court keeps the children out of the courtrooms, and keeps them away from the divorce proceedings. All of you know that divorce proceedings become vicious and antagonistic over affairs that are very difficult, if not impossible, for the children, who are the real victims of divorce in this state, to understand.

Let's take a look at Wayne county, for example, if we try to lump the divorce proceedings together with the juvenile proceedings. We now handle our juvenile problem with 1 full time judge. We have 18 circuit judges, and, conservatively, ¼ of their time on the bench is occupied in the hearings of motions and in the hearing of divorce matters. One out of every 3 cases started last year down there that went finally through to conclusion was a divorce case. If you are talking about combining these functions, do you realize what you are doing in Wayne county? You are going to have to take 6 of the 18 judges off of the bench and put them over here in this family court and have them trying divorce cases. Where do we gain anything? All that we gain is that we bring the children into the proceedings that thus far we have tried our very best to keep them out of.

The problems involved in trying to straighten out a child at the one level, on an informal basis, are entirely different than trying to settle the fight between the 2 parents of the child at another level. It is just as bad, in the opinion of some of us, to lump the children's affairs together with this antagonistic proceeding, as it is to try them in the criminal court and have the kind of things happen that Marty talked about.

When you talk about a domestic relations court, a childrens' court, a juvenile court, or a family court, you are talking about 4 different definable things. They are not all the same. They are not interchangeable. They are specialized functions and, in some states, they have specialized meanings because of the experience and the pattern of those states. Remember that Michigan is one of the forerunners and front runners in the concept of, by constitution, guaranteeing that children would not be lumped together in the adversary or trial court. This is why the other states have gone to these specialized courts and these specialized names, and this is why it hasn't been necessary in Michigan to seek this method in the past, even though we are out in front of the rest of them, even though other states look to us. Because 52 years ago our constitution guaranteed that you wouldn't have to get yourselves into the position that New York is in, that California was in before it went to its domestic relations court.

Just one final word. To paraphrase, with no disrespect, a very fine little saying, I submit that a family that litigates together, hates together.

CHAIRMAN VAN DUSEN: The Chair will advise that there are currently 5 delegates seeking recognition. The Chair has been extremely liberal in construing the subject under debate. There are 7 pending amendments to section a, in addition to the one currently under discussion. The committee has currently devoted over 2½ hours to the subject of the present amendment. The secretary will read the pending amendment.

SECRETARY CHASE: The pending amendment:

[The amendment was again read by the secretary. For text, see above, page 1395.]

CHAIRMAN VAN DUSEN: I will ask the remaining speakers to confine themselves, as closely as possible, to that subject. The Chair will recognize Mr. Plank.

MR. PLANK: Mr. Chairman, I thought I was out of order because it didn't seem like the previous speakers were on this amendment at all.

CHAIRMAN VAN DUSEN: The Chair concurs with Mr. Plank.

MR. PLANK: I am very happy to find out I am with the group, or at least some of them. I would like to ask the chairman of the committee a question, if I may.

CHAIRMAN VAN DUSEN: If Mr. Danhof cares to answer it.

MR. PLANK: I am wondering, if this language we are discussing is left in, why we have the rest of the verbiage there, Mr. Chairman. If you are going to leave it up to the legislature in the future, why don't you leave it up to them now?

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: What are you talking about, Mr. Plank? I can't quite follow your thought.

MR. PLANK: Well, you say, as "prescribed by law", and my interpretation of that is anything the legislature would like to change, they can. Why don't you leave it up to them in the beginning, then?

MR. DANHOF: Because, Mr. Plank, the committee wanted to emphasize that we were granting to the probate court, where this jurisdiction now resides and where, I will agree, there has been a development along the lines of picking out and having juvenile counseling — and so, we granted it to them initially. There it will repose and there it will stay until and unless the legislature takes it away. There is quite a bit of difference between the legislature having to give it to them and granting it to them, and making them take it away. We think it not only serves to emphasize that, as we have pointed out in our report; it should not be taken away from the probate court unless there is some adequate remedy and adequate facility provided which will be substituted in the place of the probate court. Therefore, we granted it to them in the constitution, so there is nothing the legislature has to do. It is with the probate court and it will stay there.

This is quite something else than anything other that the probate court has. All of the other jurisdiction of the probate court is what the legislature has given, not what has been granted by the constitution. This is a constitutional grant and I think you will agree that if you are somewhat prone to remove things, the spotlight is on you if you are going to take something away, unless you have provided a good, adequate remedy to take its place.

MR. PLANK: Mr. Chairman and Mr. Danhof, you give them the power to take it away. You are saying that the spotlight will not be on them now if they took it away as it presently stands in the constitution, in the 1908 constitution?

MR. DANHOF: Well, in the 1908 constitution, there was this, and they have defined it, and there is where they have left it.

MR. PLANK: That is right, except they don't have the power to take it away and here you are giving them the power.

MR. DANHOF: We agree, but we have granted it to them and they have got to take the thing away, Mr. Plank. It is not a question that they have to do anything further to give it to probate court. I submit that it will not be removed; they are not going to take it away from the probate court of Wayne county. But if the legislature in the future is going to have to deal with these problems, or somebody is, if there is to be any other type of a facility made available — I don't particularly care what it is called but if there is going to be allowance for any type of study or any type of research or any other type of a facility — we have come a long way since 1908, and we should make provision that as we go forward in the years to come, there can be arrangements for the study and perhaps for the investigation of other types of facilities, maybe not domestic relations, maybe purely juvenile. Maybe

they should be separated from the probate court, from the other proceedings in the probate court, from the mentally ill, from the commitments, from the processing of estates. This state is going to grow. We are going to get more counties that are going to have large centers of population, not less, and this is why we decided on this particular wording.

CHAIRMAN VAN DUSEN: Mr. Plank.

MR. PLANK: I still don't see why, if you are going to leave it up to the legislature, why don't you just leave it entirely up to them and don't put the other verbiage in there. I think you are not being consistent, and I certainly would urge the delegates here to make the constitution consistent with their language in trying to straighten this out. I am going to say that I support the minority report amendment here.

CHAIRMAN VAN DUSEN: Mr. Higgs.

MR. HIGGS: Mr. Chairman and fellow delegates, when Delegate Ford was speaking with regard to this language, he stated that Michigan is a front runner in having this particular provision that his amendment seeks to strike, and that other states look to us. And he said, "Look at the position New York is in because they don't have it. They have all these special courts." I would like to say that this is not true. Delegate Ford, apparently, doesn't know what position New York is in or he would not have spoken thus. He stated that what I was speaking about — and he said that Mr. Higgs, in speaking of a family court in New York, is talking about a children's court. If Delegate Ford was listening closely yesterday or listening closely in the committee hearing, he would have heard that in New York last November, they adopted a new judicial article. The children's court jurisdiction, together with their domestic relations court, which they also had, and parts of the jurisdiction of the surrogate court and other courts were transferred to a family court. That is the situation that New York is in.

When Delegate Baginski spoke about the 15 year old in this regard, I just don't see what this language has to do with that. Delegate Baginski skipped over it real fast, but if you were listening closely, you would have noticed that the 15 year old was waived over to the circuit court. There is only 1 court that has the power to do that, and that is the probate court, and the very same experts in that particular case apparently goofed, because what they did is, they waived him over to circuit court and then they tried to get him back. That was where the problem lay there.

When Ray Plank spoke on this and urged the support of striking this because he wants to be consistent, that won't do it. We are, I think, very frank to say that we did consider doing what Delegate Plank proposed, that is, taking out the section altogether, and I think Chairman Danhof has partially answered that. At least, we considered that, but we decided that it would be better to make the positive statement for emphasis as to where it lay, so that no one would be confused as to what we were doing, by adding the language "except as otherwise provided by law". But we were also giving recognition to the probate court. Some of the delegates here, I think, feel that there may be some danger in abolishing the probate court; that by including this language, it might somehow be possible to abolish the probate court. I want to sincerely urge to you that we have no such intention. When we write the probate court into the constitution, it is there. It won't be abolished. It can't be abolished any more than the circuit court. If you strike that phrase, you will place the probate court in a higher position, actually, than the circuit court.

I would like to conclude — and maybe this is a good point for it — I don't take the credit for writing this, but Delegate King wrote this yesterday afternoon, and I think it is a very fine piece of verse. He entitles it, Ode to Probate:

Blessed be the house of our con con.
We are the friend of the recent born
But across the road in that hall of sin
Are seated men of caprice and whim,
Not to be trusted, those mean lawmakers.
Who would incarcerate juvenile lawbreakers.
Under the banner of probate, so pure,
We shall go forward, their jurisdiction to secure.
Lobbied by emotion for our children, they endeavor,
Probate judges are constitutionalized forever.

CHAIRMAN VAN DUSEN: Mrs. Cushman.

MRS. CUSHMAN: I rise to support the majority report. Once again, I think, we have got to realize that we are writing a constitution, not for today or next year, but a constitution for 50 or 100 years. No one can deny that we have changed tremendously in the last 50 years. We must realize that conditions may equally change in the future. We have got to keep our constitution flexible to meet possible changes.

We are not now advocating putting children in an adversary situation, nor do we ever advocate such a thing. We are not making any real change in the jurisdiction of the probate court. All we are doing here is making it possible, if at some time in the future we develop a new concept of court arrangement — and we have done this in the past many times — if we develop such a concept, it would be possible to implement it. Therefore, I urge you to keep the constitution flexible. Support the majority report. Thank you.

CHAIRMAN VAN DUSEN: Mrs. Judd.

MRS. JUDD: Mrs. Cushman has made the point I wanted to make. It seems to me Delegate Ford has been raising up a ghost here that I think we should lay. He has been trying to pin upon the proponents of the majority report the intention of setting up a specific type of new court to handle family affairs. This is definitely not the case. It is just exactly because we do not yet know what kind of court or kind of method of handling these affairs should be set up, and it is just exactly because counties differ so in their needs for handling these matters that all the committee proposes is to remove the obstructions to this kind of future reform. Thank you.

CHAIRMAN VAN DUSEN: Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, I rise to support the committee proposal and oppose the amendment for the following reasons: 1, I believe the discussion here has been, for the most part, purely academic; 2, the principal purpose seems to be to protect the self interest of certain probate courts in counties of larger population; and 3, it seems to me that the proponents of the amendment have no sympathy and no familiarity with the counties of low population. It seems, as pointed out by Delegate Habermehl, that we do have a need for some kind of a combination of courts which will provide, among other things, a satisfactory place for the care of juveniles in these sparsely settled counties. Thank you.

CHAIRMAN VAN DUSEN: The question is on the minority amendment offered by Mr. Ford on which the Chair will recognize Mr. Habermehl.

MR. HABERMEHL: Mr. Chairman, I will be very brief. Quoting from the same news story:

> Johnny Smith is 15 years old. For the last 11 months he has been in the Wayne county jail a lost boy. His incredible story came to light Thursday, to the shock, among others, of juvenile court authorities.
>
> Johnny was taken before Juvenile Court Judge James A. Lincoln, who waived jurisdiction over the then 14 year old boy. The state supreme court —

this horrible adversary court —

> ruled, 2 months after Johnny Smith's arrest, the juvenile authorities could not waive jurisdiction on 14 year old offenders. It was too late for Johnny.

Further, this horrible adversary court, the recorders court, dismissed charges against Johnny in June of 1961. Since that time he has been under the jurisdiction of this same expert, Judge James Lincoln. Unfortunately, under Judge Lincoln's jurisdiction, he somehow or other became lost and, since June, since the recorder's court waived the jurisdiction, he has remained lost. It seems to me that isn't too good a recommendation for the expert that circularized all the members of this delegation.

CHAIRMAN VAN DUSEN: Mr. Martin.

MR. MARTIN: Mr. Chairman, I think almost everything has been said on the subject that can be said, and I just want to wind it up, if I can, by saying that what we want here — and not talking about people in Wayne county, but people over the state who are interested in these problems — is to have the probate court strengthened throughout the state to do the job of juvenile supervision and handling which it is supposed to do in these serious problem cases. We want that court properly staffed. We want it set up by districts, wherever that is necessary. We want the judges properly paid, and we don't want to have the legislature tempted to do something with this juvenile jurisdiction which it can't do now. If that happens and we get back into these adversary proceedings, we will have committed a serious mistake. I hope that the minority report amendment will be supported.

CHAIRMAN VAN DUSEN: The question is on the minority amendment offered by Messrs. Ford, Garvin, Bledsoe, Ostrow, Krolikowski and Barthwell:

[The amendment was read by Chairman Van Dusen. For text, see above, page 1395.]

Division is requested. Is the demand supported? It is supported. Those in favor of the amendment 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 adoption of the amendment, the yeas are 62, the nays are 57.

CHAIRMAN VAN DUSEN: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Leppien offers the following amendment:

1. Amend page 1, line 7, after "may" by striking out "combine 1 or more counties into probate districts, or"; so the language will then read, "The legislature may combine the office of probate judge with any judicial office inferior thereto in any county with less than 25,000 population with supplemental. . . ."

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Leppien. Mr. Leppien, do you desire recognition?

MR. LEPPIEN: Mr. Chairman and members of the committee, very humbly, I want to point out first that the county from whence I am a representative of the senatorial district to this convention was the first county in the state of Michigan to have a probation officer. As a result of that, due to the work of Delegate Martin and the association that he heads in this state, we had a 3 year program of probation.

We have heard a great deal about combining courts for the purpose of giving better service to children. I wish to respectfully point out to the delegates present that the combining of the probate courts in counties will do just the reverse. If we will stop to think, first, that in order to strengthen the work for our juveniles on any level, it is necessary to pinpoint the program so that public officials and others involved will make it their business to see that we come up with a program that does actually strengthen the program, rather than reduce it or diffuse it. I think that is exactly what the combining of counties for the districting of probate judges' jurisdiction accomplishes.

There are 3 phases that are very vital, in my book, why this should be eliminated. The first of these is that the person who finds himself in the north country on vacation — and it has been well pointed out in this convention many times in other discussions — that were we to take the population of the state of Michigan for census purposes in a given summer month, instead of when it is taken, the results, of course, would be far different. Thus we find in the north country many people who, because of reasons unknown to us, could become mentally deranged and find themselves in an area where we have a districting — if this proposal is adopted by this convention and then put into the constitution — and the mentally deranged person would have a real, real rough time attempting to get and secure for himself, if he were able, somebody to file the necessary petition for the determination of the alleged mental derangement, and as a result of that it seems to me that we in no way can afford to do that. The necessity of keeping a probate judge on call at all times is a very, very important part of our entire governmental structure, both for the adult and for the child.

The second thing that I want to bring to your attention is the fact that if we proceed to adopt the committee proposal, we would then have the question of the young minor coming home from service, wanting to be married for obvious reasons, or even just reasons and, necessarily, they need to have a waiver of the waiting period, or the determination of whether this male or female child should be granted the right to be married.

I will grant you that all attorneys do have, and will continue to have, when they are working in circuit court, some relief signed today, and they find the circuit judge over in county C instead of county A, where this is taking place, that they can secure some man — constable, process server, deputy sheriff or what have you — to take that paper over and secure the signature of the judge, wherever he may be in his district on the circuit level. But, I respectfully submit to you that this cannot be done in the case of the minor who wishes to be married. They have got to find a way. The unfortunate young man and young woman in this condition or position find themselves confronted with the fact that there is no one available on the county level, where they reside, and that is the only place of jurisdiction for them to go to obtain relief from their problem.

The third thing that I want to point out is — and I think this is very, very important to our election processes — other clerks of counties in this convention can testify as to the importance of the county election commission, whose duty has to do with the problem of determining the number of ballots, and all of the other things in the makeup and the process of an election, in the conducting of it, and the probate judge, by statute, has been made a member and chairman of that commission, a nonpartisan member, if you please, in order to lend assurance that the purity of the election will be guarded at all times. I am sure that we all agree that this should continue with at least one member of this commission being nonpartisan. I submit that this is the only person under our judicial system that can do just that job.

In closing, let me say I appreciate that the attorneys are attempting, through this suggested proposal of districting probate judges, and wish to accomplish the fact that we have better justice by having attorneys preside at all probate courts. But, I submit, too, that in the absence of qualified attorneys in all of the counties, we do have very good lay probate judges.

I respectfully solicit and seek the support of the delegation in striking from Committee Proposal 94 the suggested words "combine 1 or more counties into probate districts". Thank you.

CHAIRMAN VAN DUSEN: Mr. Lundgren.

MR. LUNDGREN: Mr. Chairman, I don't know whether this question goes to Bill. I would support your amendment if you had gone a little further. I think we are going to have an amendment on the floor in a few minutes that does.

One question that still bothers me, as a lay person here, is the question which I raised yesterday morning on the floor, and I wish the judicial committee could give us an answer because I think this is where it belongs, rather than over in the legislature. I would like them to spell out just where and what type of court they mean they will join the probate court with. That, I think, we should have on the record here, and I would like to have it answered by the judicial committee.

CHAIRMAN VAN DUSEN: Mr. Lundgren, might the Chair ask that you defer that question until we get an amendment which deals precisely with that point?

MR. LUNDGREN: All right, I shall defer.

CHAIRMAN VAN DUSEN: Mr. Radka.

MR. RADKA: I appreciate Delegate Leppien's amendment, and I reluctantly support it. I support it only with reluctance

because I, too, feel it doesn't go far enough. The reason I feel this way, if you will look on your amendment sheet, I think that the entire section that has been added should be stricken. I speak to the amendment alone, as offered by Mr. Leppien.

I come from an area that we are aiming at with this combination probate court or district probate court plan. I come from an area where the heaviest county population is somewhat over 14,000, and we get down to counties that have populations of around 4,000. So this particular provision that you are asking be placed in this constitution is actually aimed at the area that I represent. Our probate courts, and our particular counties, are looked at as local institutions. I don't know where the proponents of this particular article have received the urge or the impetus to want to combine probate courts. They certainly have not received it from the people of the low population counties in northern Michigan and the upper peninsula.

I now practice law in a circuit. There are 3 counties in our circuit, Alpena, Montmorency and Presque Isle. Our county is not the lowest population county. The heaviest population county is Alpena. The circuit judge, generally, is elected from the heavy population county. The judge rides the circuit. We have 4 terms a year, but we often feel that the judge, living in Alpena, spending most of his time there, gives a distinct advantage to the attorneys and the people in Alpena county. I am a little bit concerned about what will happen when we create district probate courts. I would say that the probate judge will undoubtedly be elected in the county that has the greatest population, and I am a little bit concerned that the people in the low population counties are not going to really have their own local probate judge.

There is a difference between a probate court and a circuit court. Up in our area, this probate judge is not a jurist who sits behind locked doors so many hours a day, that you have to contact by appointment 3 or 4 days or weeks ahead of time. He is a servant of the people and the people in our area regard him this way and they use him or her, as the situation may be. I would venture to say that if any of you people would come up into our area and go into a probate judge's office and sit there for one day, you would never again ever consider the thought of abolishing a county probate judge in any county in this state. When you are talking combination of courts under this provision, if it were put into a constitution, the people in my area are not going to see "combining probate courts", they are going to read this thing as a provision that will allow the abolishment of somebody's probate court. And I submit to you that the people in these low population counties don't want this.

And another thing, I don't particularly know where the proponents of this particular idea ever got the idea, other than from people who are not aware of our situation up there. You will recall I asked 2 questions of Mr. Higgs. Judge Baird, from Otsego county, expressed his opinion but it was only his personal opinion. The committee received no testimony from individuals in the northern Michigan area. All they received was testimony from the president of the association, and Mr. Everett advised me that his county has a population, the president of the association's county, of some 38,000, so it didn't affect him.

I would say to you that we people in northern Michigan, in the low population counties, want our own local county probate court. We have no complaints. The people want the courts. They are willing to pay the little it may cost, and we don't feel that you should give the power — if you go all along with this particular provision — to the Supreme Court of Michigan to abolish some of our local institutions that mean so much to us, such as our probate courts.

CHAIRMAN VAN DUSEN: Judge Leibrand.

MR. LEIBRAND: Mr. Chairman and delegates, I was a member of the judicial committee, and I voted for this particular phrase that Delegate Leppien's amendment seeks to strike out. I voted for it because I was under the impression that the smaller counties would want it. We heard some complaint there that the burden of maintaining a full time judge, the cost of maintaining a full time judge in the smaller counties, bore pretty heavily upon them and that, as a result, some of these counties or most of these smaller counties had probate judges that were not full time judges. They were, perhaps, farmers, real estate men, school teachers and that sort of thing, and my vote was impelled by the fact that it would enable a district to have a full time judge and probably a judge with a legal background. But that vote came, as I say, because I thought I was doing a favor for the smaller counties. I would like to hear on this floor from delegates representing smaller counties — we have already heard from Mr. Radka — if they want their own probate judges, I am all in favor of them having them. I would like to hear from the delegates from the smaller counties.

CHAIRMAN VAN DUSEN: Mr. Tubbs.

MR. TUBBS: Mr. Chairman, I hope I can be heard. My voice is not in good trim, as you see and hear. The suggestion for districting of probate courts, which is sought to be stricken out by this Leppien amendment, came from many sources. For about 10 years, I have been a member of the probate and trust law section of the state bar, a section composed of 1,000 lawyers and probate judges from every corner of the state. A couple of years ago, I was chairman of that section, and I was asked to appoint a committee to study this subject and make recommendations for possible changes. At that time, the constitutional convention had not been determined upon, but while the committee was in the midst of this deliberation, we became a constitutional convention committee, rather than a legislative committee.

I am a little familiar with some of the smaller counties, though not all of them. I have talked to probate judges from many of the smaller counties. I have talked to lawyers from many of the smaller counties, and I don't believe I can get emotional on this subject.

We are trying to make the best use of judicial manpower and set up courts that will be of service to the people. I have one particular county in mind, at this moment, where the probate judge occupies an office in the courthouse. The office says "so and so, attorney at law". Down in the left corner it says "probate judge". The county is paying the overhead for that man to practice law, and he told me that the probate court work some weeks took more time, but usually didn't occupy more than an hour or 2 a week. Then there is that famous county up in the far end where there are 2,300 people, and under the present statute they have to pay $5,000 to a probate judge, so that is about $2 per capita, and if he works an hour a week, I would be very much surprised; that is, if he works more than that.

We are simply attempting to use manpower in the best way possible. Ever since the founding of this state, we have had a circuit court in every county, but we have not had a circuit judge in every county. Much of the work of probate is administrative in nature. It can be handled by the registrar of probate, and is, in most counties, at the present time. The judge has to be there about 1 day a week to sign orders and things and conduct any hearings that are necessary.

I do not believe we are going to destroy any offices in this state that are essential to the conduct of court business in this state. I urge the rejection of the amendment.

CHAIRMAN VAN DUSEN: Mr. Stamm.

MR. STAMM: Mr. Chairman and members of the committee, I am rather reluctant to stand here and argue with the lawyers, but, again, I do think that I am as well qualified to be a judge of the operation of the probate court as 90 per cent of the attorneys in this convention, because I neighbor to the probate court in my everyday occupation, and I see the many, many things that go through the probate court.

I think, sometimes, the name court is a misnomer and we put too much emphasis on the fact that the person who is in charge of that court must be a professionally trained attorney, because so many things that go through that court require more someone with understanding and compassion and the ability to counsel in the matter of human relationships than to interpret the technicalities of the statutes.

As Mr. Leppien has indicated, many of us depend on the probate court in the matter of committees that are in operation; in emergency situations within the county. I was surprised to hear counsellor from Grand Rapids indicate that most of the work was done by the registrar in the probate court. It seems to me that it backs up my argument that we should consider this whole matter of the probate court and possibly give it another name, take the word "court" out of it, so it would be a little bit closer to the people. I was raised on the idea that the probate court was actually the peoples court. It was a place where families could go with problems in relation to a juvenile who was running into difficulty either with the law or with school administration. Many of these things are emergency problems. You can't go in and expect a clerk typist sitting in the court to make the final determination as to what should happen to the child, whether the child should be taken into the custody of a juvenile officer or possibly placed in a juvenile home.

As Mr. Leppien indicated to you, there are emergency situations that arise every day in many of these areas that require the counsel and the wise guidance of the gentleman who occupies the office of the probate court, and these emergencies cannot wait until some circuit riding attorney manages to hit the county seat and take the matter under advisement. Many of these things have to be decided now and immediately, and I do think that there definitely is a need to continue this type of service within the county.

Possibly, there is a matter of expense, but I have known of cases where the state subsidizes circuit courts in these areas, because of the matter that there is a need for the court, and it is part of the state branch of the judiciary so the state provides the funds to subsidize these matters.

I have seen cases where the children have been neglected, and I don't know what would happen to these youngsters if it wasn't for the matter that the court could issue an order that the children be taken and a special guardian be appointed immediately or the children placed in some home until such time as the court may be able to conduct a hearing.

I would like to encourage you, if you do feel that the people in these areas of our state that you are considering lumping all together because of the fact that they are not harboring as many residents as some of our other counties in the southern section of the state, should be entitled to this court, I think you should support Mr. Leppien's amendment. It seems to me it has merit. Of course, I sympathize with the attorneys too; I realize that you have had a real rough job. I can't see how the 20 of you could even get together long enough to get out a report, because I work with you attorneys, and I know that all you have to do is say "good morning", and if you are saying "good morning" to 2 attorneys, you will have 2 answers from the 2. I don't say it facetiously. Go into the corridor, pretty soon, and try it out yourself and see what happens. The both of them will not agree on the fact that it is a good morning. One will say, "It's a little cold"; and the other will say, "The sun is a little bright."

But, I do encourage your support of this amendment. I do think that we should emphasize the fact that the people of the state still have a place in this judicial article. I think that is important.

CHAIRMAN VAN DUSEN: The gentleman from Escanaba, Mr. Follo.

MR. FOLLO: Mr. Chairman, I too come from an area of the state which is sparsely settled and which has counties of very low population. It seems to me that much of the discussion here is somewhat irrelevant, because I don't think that the probate judges are threatened as much as seems to be indicated by the debate. As I read the proposal, it seems to me that it says the legislature may do this. The legislature is not likely to act hastily. It will only be upon petition of people in the area, and if there is strong opposition to it, they will not act; they will not combine counties.

It always impresses me that people who oppose changes of this kind are the very people who advocate strict economy. Here is a chance, if the people of a county want to economize and feel that 2 counties or 3 counties could be combined with a probate court, it could be done.

I believe that we have been putting too much back in the constitution, restricting our legislature more and more, or at least as much as our old constitution. It seems to me we ought to look ahead and allow our legislature to act, allow the people to do the things for themselves, if they wish. Thank you.

CHAIRMAN VAN DUSEN: Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, I admit some uncertainty in this problem and I would like some further thinking from the committee and, in order to lay a background, there are some things I would like to go over. I recognize that there are some things that take place in the probate court where the answer ought to be given by a competent attorney acting as judge. And I recognize that if that is to be done it must be on a circuit basis for these small counties or they will have to have state subsidy in the payment of the salaries because the little counties can't pay that kind of a salary. On the other hand, it seems to me that the circuit idea raises some serious problems, and I would like to know what the committee proposes, what they are thinking about as an answer.

We get along very nicely with judicial circuits for circuit judges. If the judge comes in once a week or every 2 weeks, in some places once a month, we have lived with that. We get along quite nicely with it. But there is a difference in the courts. When the circuit judge comes to town, it is the lawyers who come to see him. Maybe they have their clients and their witnesses with them. But the circuit judge is not very accessible to the general public and need not be very accessible to the general public.

On the other hand, the probate judge is visited by the people — not by the lawyers, particularly, but by the people — day after day. It is a strange thing that we have such different experiences, a probate judge talking about taking care of the probate work in an hour a week. Of course, the counties with which I am immediately familiar are a little larger than these 25,000, but not too much larger, and there is always a crowd in the waiting room of the judge's office wanting to see the probate judge — not lawyers, but the people themselves. And, as I visit these smaller counties, stop in to say hello to the probate judge, it seems to me there is always somebody waiting. Their problems may not be very important to us, but there is something that they want to see the probate judge about, and I don't believe they are ever going to be happy if they have a probate judge 1 day a week or something of that kind. They want to see him when they go to the courthouse. They want him to be there, and my experience is that he generally is there.

I would like to know from the committee: is it your thinking that there will be maintained an open office in each of these counties in the circuit, with a registrar there and a staff? Is it your thinking that the registrar's powers should be increased so that they can take care of some of the problems that the judge is supposed to take care of? How do you propose that the demand of the public for constant access to the probate judge is going to be satisfied?

CHAIRMAN VAN DUSEN: Mr. Brake yields to Mr. Danhof.

MR. DANHOF: Mr. Brake, members of the committee, to answer Mr. Brake's question, perhaps, will take a little more time than just yes or no, so let me start with this: not a single probate judge that came before us — and in answer to Mr. Radka's problem, we had them from all sized counties, and we requested and we heard from more probate judges than we heard from any other branch of our judicial system, and every one of them, from Judge Lincoln, who comes from the largest county in this state, down to Mr. Baird, who represented, we thought and we hoped, the top of Michigan, to Judge Meehan, who came from a county of 16,000, to Judge Mitchell, who came from a county of 38,000, to Judge Coleman, who comes from Calhoun, which is not a big metropolitan but a larger county — agree, in essence, with this particular idea.

Basically, we envisioned this, Mr. Brake, that there is probably more money passing through the hands of the probate judge than there is through the hands of the circuit judge; that estates are growing larger, not smaller, and that a trained, competent individual was needed.

You are quite right that we felt that for judicial purposes — it is the thinking of the committee, and has been, that the office of the probate judge is going to grow and become a judicial office and not a county office, and these myriad of things that the legislature, because it has had no other official around, has dumped into the lap of the probate judge will have to be and, we admit, may be transferred to other officials. It was the thinking, basically, of the committee that the probate judge and the probate court was a probate and a juvenile judge in a court and not a dumping ground for everything that the legislature couldn't find anybody else to handle.

We envisioned, as you say, that through statutory enactment, when a district was set up, there would be in every county a probate office, a probate registrar or clerk, whatever the name may be, and that they may be accessible to handle the probation of estates. We inquired very diligently, and in particularly of Judge Meehan, and of the other judges, whether they could handle additional counts, and the answer was very emphatically yes.

Naturally, the county of Kalamazoo or Saginaw is not going to be grouped together in a probate district. They are single circuits. They certainly aren't going to be grouped together in a district. We envisioned that the probate registrar would be, if necessary, given additional powers over and above what they have now for the normal, everyday administration of estates.

Judge Coleman has been quoted on this floor quite considerably, and for good reason. Probably she is the best looking of all of the probate judges in the state of Michigan. Her statement, given to us on December 19 was that, first, probate judges should be elected by districts. The exact size of these districts is a matter better left to the determination of this committee or to the legislature. This was her particular statement. She also stated they should be attorneys, and she is head of the juvenile division.

We further felt that by grouping these together we could give a more efficient juvenile program to these particular counties. We made inquiry of Mr. Downs, who is a probate judge in a very small county, Charlevoix county, about the juvenile programs; and Judge Meehan, who appeared before us, gave emphasis to the fact, as you did, that by grouping the counties we could have a greater population to have additional money, additional manpower, so that we could provide for adequate probate facilities.

Now, if the action of this committee indicates the action of the convention, the probate court is going to be the juvenile court, and if there is one place where there needs to be additional juvenile work, where the only person sometimes in the office, I will admit, is the judge, and if he happens to be an attorney or happens to have other business, he isn't too much concerned with the juveniles that come before him.

This was the basic thinking of the committee. I will be perfectly frank with Mr. Brake, we didn't write in all these details. The problem that Mr. Leppien is getting at is really something that Judge Mitchell put out to us, and basically, it is this: "Our association recommends that your committee examine the counties of the state to determine whether some should be joined together to effect a more economical operation in all areas of government." This lies at the heart of the problem. We have passed the local government article, and there isn't anything in there. As he points out, if this is not done, then some other method should be found for making possible the grouping. We aren't grouping anything. We are making it possible. We think that every judge — and we had them from all sizes, and we had the list and their testimony is on the tape, and I had Judge Meehan's testimony transcribed, and I mislaid it through a myriad of papers, but he emphasizes very strongly that for many months he handled Manistee county, which is north of Oceana, and he said there was no problem at all.

The case that Mr. Leppien puts out is going to be the exception, it is going to be the rare exception. I submit that there isn't anything in this day of automobile traffic or anything else, we have cars and all of these highways that we are building with our earmarked money — certainly makes it possible for a probate court that does not have to be grouped in any county.

I will agree with you that many detailed, nonjudicial duties have been delegated to the probate court. We submit that as this state grows, this will have to change. Your probate judge is going to have to become a probate court. Estates are getting of greater size. More and more counties are taking the idea that you don't probate an estate on your own; you have an attorney, and unless some type of flexibility is left in this, I think you are freezing in, for all time to come, in those areas which are going to decline for some time in population before they grow, an inadequate system of justice for parts of this state.

It isn't going to affect my county. If you really believe that the people and the juvenile program should have some idea of success, in having stricken the proviso that we have on the bottom so that it now is in the probate court and in no other, and if you want and if you support an adequate juvenile program, and if it is going to be in the probate court, then, I say, by all means, you should allow this type of provision to be written in. I don't think it will be abused. I think if they are grouped together — and it does not work — there is nothing to prohibit them from going back or reducing the size of the circuits. That was the thinking of the committee, insofar as those particular questions.

Having struck out the language "except as otherwise provided by law," to allow any type of operation efficiently of the court, both the probate part and the juvenile part, we urge that you defeat the amendment and allow this to stand in this particular section.

CHAIRMAN VAN DUSEN: Mr. Brake, the Chair believes you retained the floor, do you seek further recognition? Mr. Leppien.

MR. LEPPIEN: Mr. Chairman, through the Chair I would like to ask Delegate Danhof 2 questions. One question is, do you envision in your thinking on the additional duties of the registrar of probate, such things as the creation of a delayed birth record, the waiving of the waiting period for marriage licenses, items of that kind which all of our legislators in times past, when county clerks have appeared before various committees of the legislature, have indicated very strongly are judicial determinations and not for laymen?

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Not those items that relate to a judicial determination. You talk about a waiver of marriage. We will assume for a moment, if you will, Mr. Leppien, that you have a judge that has maybe 2 or 3 counties. I am not convinced that in those areas where there will be or there has taken place, that the judge will be so inaccessible that he cannot be reached for this particular purpose. I know that you can make the case and say, "Well, he is going to be 35, 40, 50 miles away," and I will agree. All I can tell you is that we inquired of the judges in those areas where, perhaps, this would take place. The only reply that we received was that the occurence of what you are mentioning is of a rarity which would not justify the nonincorporation of a particular item like this.

I would envision that the registrar would be given more power in the everyday operation and the probating of estates, not, of course, to determine final accounts, but in those matters which are the matters of filing and accountability, until such time as the judge would come and examine them and sign the final orders, perhaps along that particular line. You say filing a delayed birth registration. Most of these are not a matter that has to be done as of this date. I have filed many of them. You will file them and they will go to the court and eventually you will get a call that the judge has signed them. This is not a tremendous area of conflict and, as I said, we inquired particularly of Judge Meehan — he doesn't come

from a real small one but it is smaller than Mr. Brake was talking about — and also Mr. Baird, as to whether or not this would really be a handicap, because we were concerned with it. The answer that we received from every one of them was no.

MR. LEPPIEN: Delegate Danhof, I gather from the remarks just made, that you are interested in strengthening probate courts. That is correct, is it not?

MR. DANHOF: That was our intention. It is mine. It is the committee's intention.

MR. LEPPIEN: That is your intention, is it not?

MR. DANHOF: Yes.

MR. LEPPIEN: Then I submit, very respectfully, to this committee, that we are dealing with the rights of human, everyday people, and if it is necessary that this convention adopt some form of tax program that will provide for the subsidizing of probate judges in counties too small to support an adequate legally trained person, if that is necessary — and I am not saying it is, but if that is necessary — then, I submit, very respectfully, that we ought to face that in this convention and provide for it and keep the probate judge home in the county, in order to make him available at all times for many miscellaneous things. I have only mentioned 2 or 3. Every county clerk, I believe, every court official below the circuit court would well testify, and proof of what I am saying is that in our county — and I am sure it is true in other counties — the judge of probate never leaves, vacation, conference, or anything, without arranging with one of the circuit judges, who are always on duty, to be there to take his place when needed on a day to day basis.

CHAIRMAN VAN DUSEN: Mr. Shackleton.

MR. SHACKLETON: Mr. Chairman and delegates, a brief statement and a question to Delegate Danhof, please. In some of these more sparsely populated communities, there are businesses of various sizes, many of them solely owned, individually owned. An owner of the business may have employees ranging from 8 or 10 up to, maybe, 50. Assume, on a Thursday night or a Friday morning, he prepares the payroll checks for these people, payday being Friday, and then is inconsiderate enough to die that night or on Friday morning. How are those people going to be paid Saturday or Sunday until a special administrator has been appointed? If the judge is 2 or 3 counties away, how can this be accomplished?

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Mr. Shackleton, I would submit it probably would be signed faster than in the county that you come from. I think a lawyer would take the estate of this businessman — if he has 40 or 50 employees, it would probably be of sufficient size — and, probably, a special administrator would be appointed within about 72 hours, I am sure. If he did nothing else but file a petition and mail it to the judge, he would get it back by Monday morning. I submit, it would be just as fast or faster than in a county where you have 1 or 2 probate judges, where probably you would file it and they would put it on the routine and it would be filed. You say, "Well, the people have to be paid." I agree that they have to be paid, and you get them paid out as fast as you can. I am not even sure that they could be paid by the special administrator until you got everything all squared away.

That particular type of an emergency is not one which, I think, Mr. Leppien was referring to. He is referring more to the commitment of the mentally ill, which is of far greater importance, and even there you have a 3 day waiting period which the prosecuting attorney can handle in the county. I don't think that that would be a particular problem. You file the petition; you file the order, and you prepare and file your bond, and if it is in good form, you have a registrar, and I would imagine in about 48 hours you would have it over and back, which is probably as fast as you could do it in the county of Saginaw right now.

CHAIRMAN VAN DUSEN: Mr. Sleder.

MR. SLEDER: Mr. Chairman, fellow delegates, the area I represent, the twenty-seventh senatorial district, there are 7 counties, and of these 7 counties, 5 of them have a population of less then 10,000; 2 of them have a population of over 30,000. The 2 counties, Grand Traverse and Wexford, are not particularly interested in this provision because they have their own probate court and, under the provision, would continue it. However, the other 5 counties are deeply interested in this provision and each 1 of them, of course, is opposed to it. They feel by the fact that if we take and combine any 1 of these 3 or 5 counties, or in any way it might be brought about by the legislature, it will take away 1 of the areas of local government, keeping government local and keeping it down with the people. We will build the probate courts in the same manner that we have the circuit courts.

The workload of the probate courts will pile up like they have in the circuit courts, and therefore the people will not have the service nor will they have the closeness to the court system. In our area, of course, a great deal of it deals with the children, and this is important in the fact that the local probate judge has a firm acquaintence with the people of his county. And, beyond this, there is one thing more that really does concern me, and that is when we look ahead of what the committee has planned and has put a provision in that the probate judges must be attorneys. This fact, I am sure, that the only way it would be possible for any of the smaller counties to afford an attorney would be by a combination of 3 or 4 different counties, and then when we put in the provision that they must be attorneys, this is where I really become concerned.

With all due respect to the organization, the bar association — we sometimes think that Delegate Marshall has a strong representative area, that he has a bargaining position, but let me tell you, the bar association certainly can out do him at any time. My experience, as mayor of Traverse City, where our city charter required an attorney to be the municipal judge, was that we had set, as a council, the salary that the municipal judge should have, and the local bar association, after we had to ask our present municipal judge not to run again, because of his conduct in office — he was a lawyer — we asked them to submit another name on the ballot. The trouble we had, they would not propose any one of their members until the salary was set by the city commission as to the terms that they wanted. Therefore, we went in on the election without any candidate for municipal judge.

This same thing can happen when we come to the probate judges. If this provision is in and we must combine our counties and where we have — and I realize in the big counties where the bar association consists, in a county, of probably 40 or 50 attorneys — but in these small counties, we combine 3 or 4 counties, and how many attorneys do we have? We have 6 or 7 attorneys, or maybe 5, and these 5 or 6 attorneys set around the "tea table" and they say, "none of us will submit our name as probate judge until the board of supervisors sets the salary where we want it," and, gentlemen, you are in a bind then. Because you have to meet their demands if you are going to fill the office.

Therefore, I feel that we have 2 things here correlated, and that is increasing the size of the probate court and then, secondly, after we increase the size, we are then going to ask that they be attorneys, and then, we, when we do this, are in serious trouble, because the area, in the smaller communities where this applies, is definitely too small to contain many lawyers. As I say, with a small number in their association, they do control and they will control the probate courts and the salaries that will have to be set by the boards of supervisors.

I therefore, because of these reasons, highly suggest and recommend that if we are to better serve the areas of northern Michigan, the upper peninsula, where we do have sparsely populated counties, we must continue with the same or similar form of probate courts that we have operated with over the past 50, 60 years.

CHAIRMAN VAN DUSEN: Mr. Sharpe.

MR. SHARPE: Mr. Chairman, fellow delegates, I rise with a great hesitancy this morning. I have listened for hours and hours to conversation from attorneys. I would like to ask Mr. Danhof a question or two if he would care to answer

through the Chair, Mr. Chairman. You stated a few moments ago that we had passed the local government committee report and we did not mention the probate judge within our committee. I would like to ask you, Mr. Danhof, what did you expect the local government committee to do in this respect, when your committee had jurisdiction over the matter?

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Mr. Chairman, Mr. Sharpe, I did not refer to the probate judge. I was talking to the question that was raised, in essence, by Mr. Leppien in combining counties. That was what I was referring to when I said that we had passed the local government committee and there was nothing contained therein in this particular regard; that if there had been a provision, or if we had taken some action to combine counties, to make counties of sufficient size, then, with the "every county" idea, I would go along. This is what Judge Mitchell was referring to and what I was quoting. I was not referring to the mentioning of the probate judge, Mr. Sharpe.

CHAIRMAN VAN DUSEN: Mr. Sharpe.

MR. SHARPE: All right. Thank you.

Mr. Danhof, you disturbed me with another remark you made when you stated that in many cases, the judge of probate is not concerned with the juvenile problem. I don't know whether this is true or not, not being familiar with all of the probate judges in Michigan, but I will guarantee you that in my county and in the county I represent, of Shiawassee, this is not true. I want to submit this to you also, that the probate court is a court with personality. Like Mr. Sleder so ably said, the judge of the probate court knows the people with whom he is dealing, and the impression that the judge makes on the juvenile that comes before him could, very likely, leave an indelible impression upon his imagination and his life that would carry down through his entire life.

As you know, as most of us know — and I would like to remind the nonlawyer delegates once again that this was drafted by a 21 member committee of 20 lawyers and 1 lonely druggist, and he had a tremendous job on his hands, I imagine, setting here for a few days listening to these arguments, but it looks to me like there could possibly be some personal prejudice coming out of this report, when you have stated that all these individuals must be lawyers, and Judge Coleman also, you emphasize, stated this, and I do admit that there was a very attractive judge, but she is also an attorney, and I don't blame her for wanting to perpetuate the attorneys in all the courts in Michigan. This, I do not believe, is what the people in Michigan necessarily want. If the bar association wants that, that represents a small segment of our population. I go along with Mrs. Koeze, when she said that maybe we should lock the lawyers out and draft this judicial article. I don't think she is so far wrong. I think I have said altogether too much right now. (laughter)

CHAIRMAN VAN DUSEN: The Chair will advise the committee that on the current amendment, 7 out of the 11 speakers have been nonlawyers, and the Chair will bring the matter back into balance by recognizing Mr. Martin, an attorney from East Grand Rapids.

MR. MARTIN: Mr. Chairman, I don't want to speak as an attorney in this matter. I do want to talk about the problem of the children, though, because that is at the heart of this committee proposal. Some 2 years ago, at the request of the legislature, the Michigan crime and delinquency council made a study of the handling of children, the problems of handling children in the juvenile courts, probate courts, throughout the state, and this was a statewide study and as comprehensive as we could make it and it was made with the cooperation of the probate judges association. What we found was that there are many counties in the state, and among the larger counties which have full time, well paid probate judges, who have adequate staff to do the prehearing investigations that have to be done with respect to these children, and to carry out the probation responsibilities, where they are placed on probation. But, we also found that there are many counties in the state where the judge is on a part time basis, there is no staff whatsoever to carry out these responsibilities, the judge doesn't even have decent quarters in which he can interview these youngsters when they do get into trouble, and these are the problems that do come to the probate judges. And so, the bearing of this proposal is to try to see if we can't get full time probate judges who have experience in this field and who can devote enough time to it to gain more experience, who would have adequate quarters and adequate staff to work with, trained staff — because it takes trained people to work with these children who get into trouble — and it appears to be absolutely impossible to obtain this in the very small counties which can't provide that kind of pay for their judge or personnel for staff purposes.

In addition, of course, in many of the counties, you couldn't justify full time staffs for this kind of work, if you just take 1 county at a time, because there aren't sufficient problems to be dealt with. So, the committee's thought with respect to district probate courts, where they can be justified and where they would justify adequate staff and adequate pay, is the right answer to this.

The legislature, obviously, isn't going to do something like this unless it is going to benefit the people of the area and the children of the area, particularly. So that the recommendation, I am sure, comes from the probate judges because they, more than anybody else in the state of Michigan, are acutely aware of the problem of trying to deal with children who are in trouble without having any staff to give them the background to deal with the problems that these children have. It isn't just a matter of having a child come in and say, "You are it", or "You go to boys' vocational school", or something like that. These are difficult cases and they have to be worked with by trained people. This, as far as we can see, is the only way to get that kind of treatment for these children throughout the state. The big counties that have full scale staffs meet the problem all right, but the smaller counties simply are unable to do it, and I am sure that is the reason that a recommendation of this kind comes from these probate judges who are trying to solve this problem.

CHAIRMAN VAN DUSEN: Mr. William Hanna.

MR. W. F. HANNA: Mr. Chairman, I think we ought to realize that we have a greater problem than merely combining counties into probate court. I personally believe that there should be some form of county court where some of these semi administrative and judicial functions can be rested in a judge.

But, I think we confuse ourselves when we talk about distances or size. If we are perturbed, as Mr. Sleder mentioned, that in his district the counties were of such size that such a combination would result in long distances, then, on the basis of size, if you compare Kalkaska, Antrim, Charlevoix and Emmet counties, if each of those counties, 4 in number, should have a probate judge because of distance, then Marquette county should have 4 probate judges. In fact, if you look at the population of those 4 counties, if they are entitled to 4, Marquette should then be entitled to 6. Our problem is that Marquette county now is almost 5 times the size of Charlevoix county. What we are doing at this convention is trying to solve an inefficient county court system known as the probate court, because of the lack of population, or, for that matter, size, in certain areas of the state.

This same problem of having an inefficient court system exists when you are talking about the sheriff system. If local government will look at the sheriff's department, you will see that if it were not for the state police, you have little except a jail keeper in the north. Facilities of the probate court are only a part of the problem and I would like to submit that if we do not combine probate courts, then we should allow the combination of counties so that you have a sufficient tax base, a sufficient population and, with due regard to distances, an area that can be served by 1 court, and we are facing up to 1/10 of the problem.

Mr. Sleder raised the problem of securing a judge in Traverse City, but I submit to you that there is more to that story, because Traverse City's charter is one of the few small city charters, and the only 1 in the north country that I know of,

which contains a very unusual charter provision. His charter provides that the municipal judge of the city of Traverse City can not practice in any court, the circuit court of that county. Now, even in Muskegon county, our charters do not restrict our municipal judges from engaging in private practice in the circuit court, undesirable as that practice may be. But when you put that charter into a county the size of Grand Traverse, you are seriously restricted, and the question before that council was 2 fold, one, if you are going to deprive an attorney of the right to earn an adequate living, you have to pay him an adequate salary. They could have very easily left the salary alone and have allowed him private practice before the circuit court. If he will examine his charter, he had 2 alternatives.

CHAIRMAN VAN DUSEN: The gentleman from Charlevoix, Mr. Shanahan.

MR. SHANAHAN: Mr. Chairman, fellow delegates, the comments of Julius Sleder apply very much to me and the area that I represent, partly because we overlap, somewhat, 3 of the counties that he mentioned as being small, 2 of them less than 10,000, and 1 just over 10,000, also in the Charlevoix district; Charlevoix is a little bit larger, not much. The problem, as he outlined it, is very real, but there is something else that has not been mentioned, and I think it should, and that is a matter of distance. When you talk about size, there are 2 considerations, one is the population; the other one is the area.

If anybody will take a few minutes to look at the upper peninsula, a map of it, and see the distances that are involved — considering the hazards of winters far more rugged there than it is in Lansing, or even in Charlevoix — you can see the problems that can develop. Very briefly, the upper peninsula has about 1/3 of the area of the state and has about 1/5 of the counties, between 1/5 and 1/6 of the counties, so they are large; and not only that, contrary to the way it is in the lower peninsula, where the county seats ordinarily — not always, but ordinarily — are fairly near the center of the county; in the upper peninsula you find them generally at the edge of the county and on the far edge from a neighboring county. So, there again, consider distances to be traveled under adverse conditions at a time when you must get to your probate judge, in this case.

Much of the economy that is proposed by eliminating probate judges through consolidation or a circuit is lost when it is realized that in each of the counties involved it is necessary to maintain an office, somebody is there to look after things, and then there have been some proposals in regard to the delegation of powers, so that much of the so called economy goes away in added administrative costs. It goes without saying that as the need for assistance to the probate judge increases, added clerical help, if that is what it is, is provided. I have before me a list of the probate courts and judges in the state of Michigan and I note, in passing, that some of the counties have 2 probate judges and, of course, Wayne has 6. That simply means that as you get more than one can take care of, even with added help, it is necessary to have additional probate judges.

The thing that we still are talking about — I hope I am still talking about it — is the fact that there is a need, a real need for a probate judge in each county who is available, who is known locally, which has on the other side of the coin the fact that he knows people locally, in order to provide the services that are necessary in a particular county, and by keeping each county with its individual probate judge, we are going far in maintaining local self government.

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: May I make an inquiry as to how many speakers the chairman has on the list?

CHAIRMAN VAN DUSEN: The Chair has Mr. Dell, Mr. Habermehl, Miss Donnelly and yourself.

MR. DANHOF: In view of the hour, Mr. Chairman, I would move the committee do now rise.

CHAIRMAN VAN DUSEN: Mr. Danhof moves the committee do now rise. Those in favor will say aye; those opposed, no.

The motion prevails.

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

VICE PRESIDENT HUTCHINSON: The Chair recognizes the delegate from Oakland, Mr. Van Dusen.

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

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 94,** A proposal pertaining to the probate court; has adopted 1 amendment thereto, has under consideration another amendment; and has come to no final resolution thereon. This completes the report of the committee of the whole.

Mr. Van Dusen has called a meeting of the committee on rules and resolutions this noon immediately upon adjournment.

I have the following requests for leave of absence: Mr. Lawrence wishes to be excused from the afternoon session of Monday. Mr. Hoxie wishes to be excused from Monday's session to attend a meeting of the board of review; Mr. Snyder and Mr. Suzore wish to be excused from Monday's session; and Mr. Tweedie wishes to be excused from the sessions of March 5 through March 9.

VICE PRESIDENT HUTCHINSON: Without objection, the requests will be granted. The Chair hears no objection.

The Chair recognizes the delegate from Genesee, Mr. McLogan.

MR. McLOGAN: Mr. President, I rise to a point of personal privilege.

VICE PRESIDENT HUTCHINSON: The gentleman will state the point.

MR. McLOGAN: Ladies and gentlemen of the convention, my respect for lawyers and for farmers has been fortified by this convention. I sometimes feel that both groups represent the last vestiges of rugged individualism, people who will speak out for what they think. I am not an attorney, but I would suggest that we cease and desist from a practice we seem to be falling into of castigating the bar association and the legal profession in general. Lawyers can fend for themselves. They would not stoop to any alteration of or protection from the constitution purely for self gain. Thank you. (applause)

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would simply like to remind the members of the committee on rules and resolutions that it will be entirely in order to bring their lunches to the meeting that has been called immediately following the noon recess.

SECRETARY CHASE: Mr. Habermehl requests leave of absence from the session of this afternoon.

VICE PRESIDENT HUTCHINSON: Without objection, the request will be granted. The Chair hears no objection.

The Chair recognizes the gentleman from Huron, Mr. McAllister.

MR. McALLISTER: At this time, I move the convention recess until 2:00 o'clock.

VICE PRESIDENT HUTCHINSON: Mr. McAllister moves that the convention stand in recess until 2:00 p.m. All those in favor will say aye. Opposed will say no.

The motion prevails and the convention stands in recess until 2:00 o'clock p.m.

[Whereupon, at 11:40 o'clock a.m., the convention recessed; and, at 2:00 o'clock p.m., reconvened.]

The convention will be in order.

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

VICE PRESIDENT HUTCHINSON: **General orders of the day.** The Chair recognizes the gentleman from Oakland, Mr. Van Dusen.

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

VICE PRESIDENT HUTCHINSON: On the motion of Mr. Van Dusen, all those in favor will say aye. Opposed will say no.

The motion prevails. The committee will convene and the gentleman from Oakland, Mr. Van Dusen, will preside.

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

CHAIRMAN VAN DUSEN: The Chair noted a certain lack of enthusiasm when we moved to resolve into committee of the whole, which is, perhaps, understandable. It was mentioned when the committee was sitting a day or so ago that one of the delegates had suggested that the bell be rung every 5 minutes just to keep people alert. This noon, in the rules committee, it was suggested that perhaps a clock might be placed back here so that all of the delegates could observe it, but Mr. Gover suggested that perhaps a calendar would be more appropriate. (laughter)

The committee of the whole is currently considering section a of **Committee Proposal 94,** which deals with the organization and jurisdiction of the probate courts of the state. The question is currently on an amendment to that section offered by Mr. Leppien, which the secretary will read.

SECRETARY CHASE: Mr. Leppien's amendment is:

[The amendment was again read by the secretary. For text, see above, page 1410.]

CHAIRMAN VAN DUSEN: On the amendment offered by Mr. Leppien, the Chair will recognize Mr. Dell.

MR. DELL: Mr. Chairman, there is a possibility that my statements are not pertaining to the amendment before us here. It is in the body of section a, and it is brought about by a statement by Mr. Sleder this morning.

CHAIRMAN VAN DUSEN: There are a number of pending amendments, Mr. Dell, if you would prefer to defer your remarks until we have one that is more appropriate.

MR. DELL: If it is permissible, I could speak on it at this time.

CHAIRMAN VAN DUSEN: If your remarks are confined to the Leppien amendment, you may proceed, Mr. Dell.

MR. DELL: They are not.

CHAIRMAN VAN DUSEN: Mr. Habermehl had sought recognition this morning, but has been excused. Miss Donnelly had sought recognition this morning. Miss Donnelly, do you desire to be recognized on the Leppien amendment?

MISS DONNELLY: Yes. Believe it or not, I rise to support the committee. I believe this is very vital for the future of good administration of justice throughout the state.

Originally, people have said they don't like it because they want nonlawyers, or we are throwing them off and we are being obnoxious about that. If you will read 96f, we keep those who are once elected on until they are defeated, so you don't need to panic about your individual nonlawyer judges. There are only 33 of them in the state that are involved in this.

As to availability, we had testimony from 1 of these esteemed judges who was a lawyer. He campaigned and was elected on the theory that he would be available 1 day a week and he isn't even available that often — and that was a Monday — because many is the time I saw him down here on a Monday, so obviously he wasn't even available to these people that 1 day a week. His basic theory was, if you efficiently handle your office, you do not need that amount of time for the small areas.

We want to basically remember that the people outstate in the small areas often have rather large estates where they have serious problems and they should be handled by someone who is very competent to handle them in the area of training and knowledge of the broad law and the effect of what their orders will mean. Mr. Leppien's county, with 190,000, I don't think will ever be touched under this. I don't think anybody would anticipate it. We have 17 counties, if the math is correct, under 10,000. These counties would probably be affected, but I think they would be benefited.

I submit that with Alexander Graham Bell and his aid, plus Henry Ford, or whoever else you would like to think of, these judges will be available whenever they are absolutely needed.

As to the unwed mothers, I don't think it is so immediate that 2 days or 1 day's phone call or 3 days is going to change the facts. We all know this condition doesn't arise immediately. It isn't that kind of an emergency. So, I submit it is not a good argument. (laughter)

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Leppien to section a of Committee Proposal 94. Does any delegate desire to have the amendment read again? If not, those in favor of the amendment will say aye. Those opposed will say no.

The amendment is not adopted. The secretary will read the next amendment.

A DELEGATE: Division.

CHAIRMAN VAN DUSEN: A division is requested, is the demand supported? It is supported. Those in favor of the Leppien amendment 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 adoption of the amendment offered by Mr. Leppien, the yeas are 45, the nays are 65.

CHAIRMAN VAN DUSEN: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Hubbs offers the following amendment:

1. Amend page 1, line 10, after "law,", by inserting "however in all counties under 25,000 population the entire salary expense of any court established under this provision shall be borne by the state,".

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Hubbs, on which the Chair will recognize Mr. Hubbs.

MR. HUBBS: Mr. Chairman, interminable interlocution with interlocutory results prompts me to indulge in some hortatory oratory.

CHAIRMAN VAN DUSEN: On the amendment, the Chair presumes, Mr. Hubbs? (laughter)

MR. HUBBS: Yes, Mr. Chairman, and along that line I am also indulging in this hortatory oratory for a reason. Not being an attorney but a salesman, I believe in conditioning my audience to the material to follow, and I have therefore submitted this amendment. Before I get into the details of the amendment, however, I would like to mention to some of the attorneys present, or all of the attorneys present, that we laymen don't dislike them. In fact, I rather like attorneys myself, and someone this morning said, over in this corner, that some of us who were not attorneys were rather envious, and I am particularly envious. I would like to have been an attorney, and 2 reasons I can think of right now make me envious of attorneys. One of them, Mr. Chairman, is the fact that you have not seen fit to confer upon me the degree that you conferred on Mr. Farnsworth, that of honorary barrister. The other reason I am somewhat envious of attorneys, I understand that most of them had an opportunity to take a course in college called, how to be on either side of a question. Incidentally, the textbook of this course is entitled, Developing The Opposite Point of View, and was written by a man known as I. M. Divided. The initials stand for "impounded mandamus".

The reason that I offer my amendment, as you will all know, is that if the people who have written the judicial article have their way, it is likely that in the near future when we proceed into another section of the judicial article,

that our justices of the peace may be done away with and a county court provided for or will be provided for by action of the legislature. Now, I know that if I start talking about justices of the peace, all kinds of people will rise up to tell me what horrible people they are and that some of them are inclined to inebriation and things of that sort. I think there are a lot of good ones, and I think we outstate in counties of small population have a problem. My main problem, being in that type of situation, is economics, and I am unwilling to support, through tax money levied on personal property and real estate, any more government than I have to. I have too much government now and if the judicial article writers have their way, I understand they are going to have attorneys for judges, and county courts. This, in my opinion, will inevitably be more expensive than the present system in my area.

Therefore, my amendment is designed to provide for payment of salary to any court so established under this article by the state rather than the local government. I can come up with a lot of good reasons for this. I haven't provided that the state shall pay the expense of operating the new offices and judicial chambers required. I think local government may begin to carry that burden, but if they want us to have quality justice outstate, let them provide payment for quality justice by sending the tax money up from Lansing to pay the judicial salaries that will be involved, and that is why I have offered this amendment at this time. It comes in a little bit early as regards justices of the peace, but these fellows are tricky, you know. They don't wait until you get to justices of the peace to make some provision for them.

Line 7 says, "The legislature may combine 1 or more counties into probate districts," and that is all right, in a way, "or combine the office of probate judge with any judicial office inferior thereto in any county with less than 25,000 population, with supplemental salary as provided by law, and shall do so on recommendation and report of the supreme court."

This doesn't leave it up to local option; it doesn't leave it up to the legislature. It says the legislature may, but shall do so on recommendation and report of the supreme court and therefore I say that if you are going to tell us by action of the legislature and the supreme court exactly how expensive our court system in our areas is going to be, then I suggest that you pay for it. Thank you very much.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Hubbs. Mr. Stafseth, do you seek recognition on the amendment?

MR. STAFSETH: Mr. Chairman and fellow delegates, I think the situation that is before us is something similar to that which came before us when we were trying to encourage engineers into the county road engineering field, and I think that the solution that we effected might be a very good solution for this particular problem dealing with the probate court. That is, if you have a probate judge who is a licensed attorney, that the state supplement his salary; I am not saying pay all of his salary, but suplement it. The reason I say this is that the county, then, could have a choice. If they are up in the sparsely populated areas of the upper peninsula, or in the upper part of the lower peninsula and they feel that they want to have a layman that is conducting himself very well, they have this choice.

However, with the supplementing the salary of a licensed attorney, they would have a choice of saying, "Well, maybe we should have this licensed attorney," and I am sure that under those conditions you would have far better attorneys coming out and doing a job more conscientiously to sell their program.

CHAIRMAN VAN DUSEN: Mr. Barthwell.

MR. BARTHWELL: Mr. Chairman and fellow delegates, I probably will not say, as eloquently as Mr. Hubbs did, that I, too, favor the state assuming the responsibility for the salaries of judges. To me, this is very basic because I have listened in the committee for long hours to schemes as to how you are going to get the best people to submit themselves for the judges of the state.

I contend that in a capitalistic system there is only one thing that attracts the best people and that is money. So, as long as we are not going to pay these people adequately, and it has been stated that they are not adequately paid, I very definitely favor the state assuming the responsibility for the salaries of the judges. This has been done in many of the new judicial articles. In New York state and in Wisconsin, Illinois — a lot of the states — the state has assumed the responsibility of paying the salary of these officers. So, I am in favor of the amendment.

CHAIRMAN VAN DUSEN: On the amendment offered by Mr. Hubbs, the Chair will recognize Mr. Lundgren.

MR. LUNDGREN: This is just a brief statement. I think we have hit upon something here. Mr. Hubbs, I don't think your amendment is going to pass. I hate to foredoom you ahead of time, but we have hit on something here that state government has got to look to.

When we provide, within the constitution here, all these new courts and other things that we are going to provide, one of these days — as has been expressed to me several times by people over in the "big house", the legislature — when we continue to provide new commissions and new this and new that, one of these days we are going to have to start providing the money that the state says we shall do. I think we have gone through that with the erection of new jails throughout the state where the state has come in and condemned the jail, and the counties have had a dickens of a time raising the money to build a new jail.

I only talk to this point because I think we are on something that we have to give consideration to. When we decide that we are going to create new courts and new this and new that in communities that have a hard time now providing the proper place for their laws and everything to be taken up and discussed and acted upon, we have to recognize if we bring into these communities new ideas, that we should also provide some way, in some manner, some means of providing the moneys to operate such.

Mr. Hubbs, I think I would support your amendment here. I don't know how far we are going to go with it, but it is something we should consider.

CHAIRMAN VAN DUSEN: Mr. Madar.

MR. MADAR: Mr. Chairman, I have an amendment there to the amendment that I would like to have read.

CHAIRMAN VAN DUSEN: The secretary will read the amendment to the amendment.

SECRETARY CHASE: Mr. Madar's amendment to the amendment of Mr. Hubbs is as follows:

1. Amend the amendment, by striking out "however"; and after "counties" by striking out "under 25,000 population"; so the language of the amendment will then read, "in all counties the entire salary expense of any court established under this provision shall be borne by the state."

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Madar to the amendment offered by Mr. Hubbs on which the Chair will recognize Mr. Madar.

MR. MADAR: Mr. Chairman, I just want to say that I just want to be fair to everybody, and I think that we, in Detroit and Wayne county, should get a few dollars out of the state, too, besides what we are getting now. Of course, none of us are getting enough.

CHAIRMAN VAN DUSEN: The question is on the Madar amendment. Mr. Hubbs.

MR. HUBBS: Mr. Chairman, I would like to suggest to Mr. Madar that he check into something that prompted me to put my amendment up in the way that I did. I have been told that the members of the judiciary in Wayne county are partially paid by the state and partially paid by the county, and that their eligibility to the retirement system of Wayne county depends on their receiving at least half of their pay from the county of Wayne. Now, if the state pays all of their salary, will they still be eligible to obtain their retirement from the county of Wayne or will they not?

CHAIRMAN VAN DUSEN: Would the gentleman care to answer, Mr. Madar?

MR. MADAR: Mr. Chairman, I don't believe that this applies to the probate judges, as their salaries are paid for right now by the county. However, I might say that we are willing to go ahead and accept the money from the state. I don't suppose the judges are going to like it, but you can bet your bottom dollar that the taxpayers are going to appreciate it very much.

CHAIRMAN VAN DUSEN: Mr. Hubbs.

MR. HUBBS: Mr. Chairman, I am reliably informed by counsel that in the county of Wayne, the probate judges are paid by the county, just as they are in my county. But, by the way, I should like to point out to you, as far as my amendment is concerned, it does not say that the judges, in particular the probate judges, should be paid by the state. It says, "however in all counties under 25,000 population the entire salary expense of any court established under this provision . . . ." In other words, the county will continue to pay the salary it does now, unless the combinations are made and the justice courts are taken into the probate court or something of that sort. That is all my provision does. It says that if they change and give us quality justice, they are going to have to pay the quality salary required.

CHAIRMAN VAN DUSEN: Mr. Madar.

MR. MADAR: Mr. Chairman, in answer to Mr. Hubbs, I didn't have to go to my counsel, though I will admit that Mr. Hubbs has excellent counsel — I am sure Mr. Hutchinson is an exceptionally good attorney.

A DELEGATE: Iverson.

MR. MADAR: Oh, was that Mr. Iverson? Hubbs, will you stop getting — (laughter) Mr. Hubbs, I wish you wouldn't keep getting advice from our Wayne county attorneys. Go ahead and use Mr. Hutchinson, you've got him available there.

Frankly, I realize that this is also pertaining to other courts which might be established. That is the reason why I left that portion in there of "any other court established under this provision shall be borne by the state."

Now, so far as I am concerned, I will admit that I don't have any hopes of seeing this pass. In fact, I think we would be rather foolish to pass this as we would be if we passed the other amendment.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Madar to the amendment offered by Mr. Hubbs. Mr. Hubbs.

MR. HUBBS: Mr. Chairman, I have received some further counsel and I have no objection to the amendment.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Madar. Mr. Danhof.

MR. DANHOF: Mr. Chairman and members of the committee, in this regard, the salary of probate judges, I think that this is something that should be considered very seriously, and I think Mr. Hubbs has a point. I am not sure that it is involved in this particular article. We have a section coming up that deals with salaries. But, let's review, for a minute, how probate judges are paid. They used to be paid on a fee basis. That meant — and I can recall, it hasn't been that long since I have been practicing law — that they were on a fee basis, and that meant this, in some courts, and I won't name where, when you wanted an order confirming sale and you said, "Send me 2", you got 6; you didn't send 4 back, you paid for 6, because if you didn't, then the next time service was a little slow. At $1.50 an order, you see, this was an extra $6. It was determined that this was not a particularly good feature, and we have recommended that in all courts we not work upon a fee basis, and so, they went on salary.

The legislature has provided for a scale based on population, and this has been amended from time to time, and it sets up that the legislature provides that in counties of such and such a size up to such a size, the probate judge shall be paid so many dollars, and the minimum is $5,000. I don't know, off hand, exactly what the maximum is, but those from Wayne county can probably tell me in a hurry. In addition to that, some counties will pay more. The salary of the circuit judges, if we are talking salaries, and with the Chair's indulgence, maybe we can do that — and I am not sure, and I am willing to state here that if the legislature provides that there shall be districts, that at the time they do that, they should provide for a state salary, but I say that it is not the time here and now to write it in.

We aren't making mandatory that there be districts. I think that when and if there are, this is all part and parcel of the question of how they will be accomplished and how they will be paid, and I think that there would be a very proper time and a very proper place to raise this before the appropriate legislative committee. Because we agree, as Mr. Barthwell said, that perhaps justice is something that should be dispensed equally, and if probate judges are to develop into a district where there is a full time operation, so it will be as you have with circuit judges where you have a base pay by the state and supplementation by the counties within the circuit that desires to do so. There is nothing in here that prohibits that type of arrangement to be made, but I submit that it is not here, nor is it the place where we should work on the salary idea. The salaries of probate judges have gone through an evolution from where they were really low to where they got into a fee basis, whereby those probate judges in the heavily populated areas made a very sizeable salary or compensation. Consequently, the legislature determined that it should be on a salary, and this, I think, is valid.

I think, as time progresses, if, as Mr. Hubbs concludes, that some of these consolidations will take place, they will take into account the salary provision. They have done it in the past. I submit, they will do it in the future if they combine counties. And I think they should be made aware of the fact that if the salary is too high and the counties cannot bear the load, then it will be as we have with our circuit judges, where the bulk of it is paid direct from the state funds. The question of whether all salaries of all judges should be the same is something we will debate for a longer time for another day, but I submit that it is not here and now to write this particular provision in.

I can agree with the philosophy, perhaps, behind it, and with the concern that Mr. Hubbs has for his particular area, but I submit that there is nothing mandatory about these provisions, and I am sure that the men, as Mr. Lundgren wants to refer to them, at the big house" — and I think it is a little better than that — will give due consideration to all of these aspects before they make any type of recommendation or pass any type of legislation. I would urge the defeat of the amendment.

CHAIRMAN VAN DUSEN: The Chair would state that he has been somewhat indulgent with the chairman of the committee on judicial branch so that the subject might be somewhat more explored, but will request the succeeding speakers to confine themselves exclusively to the Madar amendment until that has been acted on. Mr. Mahinske, do you seek recognition on the Madar amendment?

MR. MAHINSKE: My question goes to both the Madar amendment and the Hubbs amendment. I think I know what your intent is here, but you don't say this, either one of you. You are talking about the entire salary expense of any court. When I interpret "entire", I am not restricting this to judges. Is it your intent to restrict this salary expense to the judge's salary expense?

CHAIRMAN VAN DUSEN: Mr. Hubbs.

MR. HUBBS: Mr. Chairman, fellow delegates, when I drafted this amendment, this question that Mr. Mahinske brings up was considered by myself, and I started thinking about it a little bit and it was suggested to me that I should put in here the entire judicial salary, and in my notes, I made a note to that effect. But then I started thinking about all of the services that the justices who hold court in their own buildings provide, that is heat, light, space, and so on, and I realized that salary expense, as I had put it, might not be a bad thing. In other words, I am willing to bargain a little bit with you. If you want to pay for some clerks and things like that, why, we will pay the heat and light bill and provide a place for them to do their work. So I left my amend-

ment deliberately the way it was, assuming that the increased expense of the courts, that I assume, are going to arise out of this provision, are going to include other things besides just the judicial salaries that you are thinking of.

MR. MAHINSKE: Then I would like to direct another question through the Chair. Did you also take into consideration that before this provision would be executed, we would be combining the probate court with an inferior court or a court of inferior jurisdiction? What you are asking here is the state to pay the entire expenses of any court established under this and part of the function and probably the greater function of this court would be strictly local matters and not probate matters at all. Did you take this into consideration?

MR. HUBBS: Mr. Chairman, Mr. Mahinske, yes, I did take that into consideration. But the whole tone of the judicial article suggests to me integration and direction from above, and therefore I assumed that if the judicial people desired to control the court from top to bottom, from the top, that they provide the salary from the top even though the matters that they are concerned with are local. I do not think that since the judges are likely to be elected locally, that this is going to result in lack of control over the judge, as someone might suggest. I think if he isn't any good and we are still electing people, why, then, we can get rid of him. But, with strict reference to Mr. Madar's amendment, I don't see anything wrong with it.

I think that Mr. Danhof, as the Chair has suggested, was given a great deal of latitude when he talked almost exclusively about the salaries of probate judges. My amendment had nothing whatever to do with the salaries of probate judges, as the system now exists. It only says that for courts established under this provision, the state shall bear the entire salary, and it doesn't have a direct reference to the present salaries of probate judges whatever.

I think that all of the persons who are concerned with economy in government at the local level and high cost of government bearing on property holders will vote for this amendment.

CHAIRMAN VAN DUSEN: Mr. Mahinske.

MR. MAHINSKE: In response I would like to state, in view of the remarks made, that I would be opposed to this amendment to the amendment, and to the amendment, because I think that it would encourage the application of this provision for economic reasons, primarily, and judicial reasons secondarily. For these reasons, I would be opposed to the amendment.

CHAIRMAN VAN DUSEN: Mr. Barthwell, do you seek recognition on the Madar amendment? The question is on the amendment offered by Mr. Madar to the amendment offered by Mr. Hubbs. Mr. Ford, do you seek recognition on the Madar amendment?

MR. FORD: Yes, Mr. Chairman, because the Madar amendment is a laudable amendment only because it strikes at one of the bad features here of the whole thing, in that it would take out some of the discrimination that is built into this thing. But we are kidding ourselves if we adopt this and think that we are correcting anything. All we are doing is putting a patch on a worn out tire.

Really, what Mr. Hubbs is doing here is destroying the possibility of ever having a local court system in a county under 25,000, because what you are asking the legislature to do is vote, not on the need of the local communities for a court system but on the question of how much money they can afford to pay for a court system for local communities. If the Madar amendment is adopted and then the Hubbs amendment is adopted, this would then have statewide effect. It is bad, in its entire effect, but if it is going to be bad for one part of the state, it should be bad for all of the state, and I don't think that the discrimination should be either in favor of or against counties above or below a certain number; 25,000 happens to be the one we are talking about here. I would urge the adoption of the Madar amendment only as a method of defeating the Hubbs amendment ultimately.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Madar to the amendment offered by Mr. Hubbs. The secretary will read the Madar amendment.

SECRETARY CHASE: The amendment offered by Mr. Madar is:

[The amendment was again read by the secretary. For text, see above, page 1418.]

CHAIRMAN VAN DUSEN: Those in favor of the Madar amendment will say aye; those opposed will say no.

The amendment is not adopted. The question is now upon the amendment of Mr. Hubbs. Mr. Hubbs.

MR. HUBBS: Mr. Chairman, Mr. Ford, in recommending the Madar amendment, was attempting to defeat my amendment, and in his remarks, he said that the criteria that the legislature would use in judging whether these local courts should be created or not would be whether they could afford them or not. I suggest to the economy minded people here that the criteria that the legislature should use is not whether they could afford it or not, but whether the people in the local area could afford it or not, and what I am saying is that we can't afford this expensive kind of justice at the local level, and would prefer to creep along with our own type, and if necessary, do what we can to make it better. I therefore suggest that if we are going to have quality justice, let the legislature provide the money to pay for it. I urge that you adopt my amendment at this time, to take into account something that I see coming up in later proposals. Thank you.

CHAIRMAN VAN DUSEN: Mr. Dell, do you desire to be recognized on the Hubbs amendment?

MR. DELL: Mr. Chairman, I guess this is as good a place as any if I am going to have my day in court.

CHAIRMAN VAN DUSEN: You may proceed, Mr. Dell.

MR. DELL: My problem was: being connected with the county since 1931 on the financial end of it, and trying to meet some of these salaries, and this morning when Mr. Sleder brought up the question of the county board of supervisors setting the salary, as I read this amendment here, or, rather, this section, and it is the section which Mr. Hubbs has mentioned, too, in that the salary would be supplemental, provided by law, and shall do so on recommendation and report to the supreme court, I just wonder, does that mean that the supreme court would control the salary and would tell us what salary we would pay to our probates?

CHAIRMAN VAN DUSEN: To whom do you direct your question?

MR. DELL: I guess Mr. Danhof.

CHAIRMAN VAN DUSEN: Mr. Danhof, would the gentleman care to answer?

MR. DANHOF: Mr. Dell, I had assumed that yesterday after a great deal of debate, we had taken care of this "shall" or "may". Again, it gets strictly down to that question. The salary will be as provided by law. If the law says the state will pay it, the state will pay it. If the law says the county will pay it, then I guess the county or counties, as the case may be, if there are more than one involved, will pay it.

Again, we get down to the use of these words that Mr. Brake and myself and numerous other people have gone round and round on. You get down to the question that, no, of course not, the legislature will set the districts and will set the salary. We would again get down into this for the recommendations — in order, when it can be placed before them — the recommendations will come regarding the size of the counties, the size of the caseload, what the past history has proven, what amount of time, perhaps, will be spent on it — we hope it will be full time — and what, in light of this, based maybe upon the present schedule, if you have the present schedule, what additional implementation or what additional amount should be put there, too, for the additional duties that may be involved.

That is just exactly what is involved insofar as the salary provisions are concerned. Anything beyond that, I can't tell

you exactly all of the details, but that is what we had in mind. But, as I said, this is the same thing we went through yesterday on these words. We had put this as strongly as we could so that the legislature would follow the recommendations, both upon the size of the district — in other words, in the size of it, if it is 2 counties or if it is 3 counties — and what the salary should be for that particular type and size of district. That is the idea.

CHAIRMAN VANDUSEN: Mr. Dell.

MR. DELL: It was just a question of whether or not it would go back to the supreme court in setting the salary. Now I am rather confused, and I think I understand now why there was 1 druggist on this committee with 20 attorneys. It was his position to provide the aspirin. (laughter)

CHAIRMAN VAN DUSEN: Mr. Higgs.

MR. HIGGS: Mr. Chairman, I can appreciate Mr. Dell's concern in reading this sentence, and we did go through it yesterday. The specific answer to the question, I think, as I understand it — and I am not sure I understood the chairman — but the answer to the question that Mr. Dell raised, in my mind, would be no, the supreme court would have nothing to do about setting the salary.

CHAIRMAN VAN DUSEN: Mr. Barthwell. Mr. Barthwell passes. Mr. William Hanna.

MR. W. F. HANNA: Mr. Chairman, Mr. Hubbs, if, next week, I could show you that having a probate court in every county costs your inventory of personal property more money than if your county was combined with the county next to it, would you change your position?

CHAIRMAN VAN DUSEN: Mr. Hubbs? The Chair will state that he is not sure the question is germane to the Hubbs amendment, but will, nevertheless, accept Mr. Hubbs' answer.

MR. W. F. HANNA: Mr. Chairman, it goes to the reasons that he raised for wanting his amendment.

MR. HUBBS: The reason I raised for wanting my amendment, Mr. Hanna, is that I am afraid that in the combination of courts that might result from this, the cost would be increased. I have not said that I was against the combination of probate judges. However, you will notice I was not in that argument this morning. But I will say that I would be against the combination of probate judges for a good many reasons other than cost alone.

MR. W. F. HANNA: Your argument, so far on the floor, was to the cost question.

MR. HUBBS: Generally speaking, the cost of soaking into the probate court, or some other court, the justice system, which is going to be the inevitable result of this article.

CHAIRMAN VAN DUSEN: Mr. Hanna.

MR. W. F. HANNA: Mr. Chairman, Mr. Hubbs, is it your understanding that your amendment goes both to the giving of the probate court additional jurisdiction, and to the question of the probate court being placed on a multiple county basis?

MR. HUBBS: My amendment has nothing to do with whether it is placed on a multiple county basis or not, and it has nothing to do with whether the probate court has any more jurisdiction than it has now or not, as far as I know. All it says is that if courts are combined under this provision, the salary expense shall be paid by the state.

In other words, I am anticipating that the county courts, which may be set up under the terms of the judicial article, will be a more expensive operation than we presently have outstate, and as I have said earlier, if they are going to increase the cost of justice at the local level, I want the people who want it to be increased to be willing to pay for it.

MR. W. F. HANNA: Mr. Chairman, if I may question Mr. Hubbs further. Mr. Hubbs, the probate court's jurisdiction and duties are prescribed by law. Are you saying that each time the legislature gives the probate court an additional function, that it should increase its salary, and each time it decreases or takes away from the probate court a function, it should decrease its salary?

MR. HUBBS: Have you read my amendment, Mr. Hanna?

MR. W. F. HANNA: Yes, sir.

MR. HUBBS: I have not said any of those things. I would think I can get expert testimony here to state as to what I have said, I didn't say anything of that kind.

MR. W. F. HANNA: Excuse me. Mr. Chairman, Mr. Hubbs, you are saying that if they give to the probate court the jurisdiction now held by justices of the peace, that you want the state to bear the entire salary.

CHAIRMAN VAN DUSEN: Mr. Hubbs.

MR. HUBBS: I am saying that if the jurisdiction of the justice courts, or any lower court in the county, is given to the probate court, that the increase that I expect will be present will be borne by the state. The entire cost, it says in my amendment, the entire salary expense.

CHAIRMAN VAN DUSEN: Mr. Hanna.

MR. W. F. HANNA: Mr. Chairman, Mr. Hubbs, what if they give them half the justice court jurisdiction?

MR. HUBBS: Mr. Chairman, I do not wish to indulge in a colloquy with Mr. Hanna, without going through you, and therefore I suggest that he is asking the questions in an attempt to put words in my mouth about what I want to do that I don't want to do. All I want to do is make sure that we have quality justice at the lower level with quality expense attached, and that the state pays for the increased costs which are sure to result. That is the objective of my amendment. That is — I am sorry that we had the little digression here with Mr. Dell's question — I would like to have you get back to it. Now that the Madar amendment is lost, I would like those of you who are seriously interested in the economy of government at the local level to support my amendment and vote for it, and I will then sit down.

CHAIRMAN VAN DUSEN: Mr. Higgs, do you desire recognition at this time on the Hubbs amendment?

The question is on the amendment offered by Mr. Hubbs, which the secretary will read.

SECRETARY CHASE: Mr. Hubbs' amendment:

[The amendment was again read by the secretary. For text, see above, page 1417.]

CHAIRMAN VAN DUSEN: Those in favor of the amendment offered by Mr. Hubbs will say aye.

MR. HUBBS: May we have a division?

CHAIRMAN VAN DUSEN: A division has been requested by Mr. Hubbs. Is the demand supported? It is supported. Those in favor of the amendment offered by Mr. Hubbs 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 amendment offered by Mr. Hubbs, the yeas are 23, the nays are 79.

CHAIRMAN VAN DUSEN: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Radka offers the following amendment:

1. Amend page 1, line 7, after "court.", by striking out "The legislature may combine 1 or more counties into probate districts, or combine the office of probate judge with any judicial office inferior thereto in any county with less than 25,000 population with supplemental salary as provided by law, and shall do so on recommendation and report of the supreme court.".

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Radka, on which the Chair will recognize Mr. Radka.

MR. RADKA: I have learned that you don't have to say much to offer an amendment. All you have to do is throw the delegates the ball and they will run with it. Mr. Leppien threw them the first phrase of the text of this amendment this morning, and you ran around with it all morning, and now we have 4 separate phrases which we can consider all together. I would say that there is no need for us to express ourselves any further on the proposition of whether or not we should give anyone the power to combine probate courts

in particular counties. We had all the testimony on that this morning and we have had a vote on it. I would say that since the delegates here feel that our justices in the rural, lower populated counties might be in jeopardy, that rather than writing it in the constitution and impressing it upon us by saying that the supreme court will have the power to consolidate probate courts in these rural areas, you ought to at least give our people the right to approve it. I would say that it is all right to combine our probate courts, but let us also, by referendum, say that we approve the combination. Let us be the judge of our own justice and our own courts.

CHAIRMAN VAN DUSEN: Mr. Radka, the Chair believes you are speaking on the second of your 2 amendments.

MR. RADKA: No, I am not because the second of the 2 amendments I am just offering as a possible solution. I don't want to belabor —

CHAIRMAN VAN DUSEN: The matter currently before the committee, Mr. Radka, is your amendment to strike out the words "The legislature may combine 1 or more counties into probate districts, or combine the office of probate judge with any judicial office," and so on and so forth. It says nothing about a referendum.

MR. RADKA: Well, including these words that we have "combine 1 or more counties into probate districts," and the question of the referendum I am just offering as a possibility, rather than subscribing to this amendment in its entirety. I will take the phrases in reverse order. The second problem that we have — and I think that this is the most serious problem, as far as this sentence is concerned — "and shall do so". Now, this means that they will have the right to combine probate districts and will also have the right to combine the office of probate judge with any judicial office inferior thereto. This power, by this constitutional provision is placed in the hands of the supreme court, "and shall do so on recommendation and report of the supreme court." I call your attention to the word "shall", and I will just briefly say, we have had a whole lot of comment on this particular problem, and rather than belabor the point, I feel, once again, we are giving too much power to the supreme court which is legislative power and not within the judicial sphere.

I will merely mention the other phrase which I object to, and that is "in any county with less than 25,000 population with supplemental salary as provided by law." I point here specifically to the 25,000 figure. I heard Mr. Kuhn ask a question the other day, or raise a point, he thought that the 25,000 figure might be arbitrary and was unrealistic, therefore there will be many of you who will want to probably decrease this figure. I suggest we might decrease it to the figure of 2,716, because the population of Keweenaw county is 2,717, I believe.

The other facet of this particular amendment — and I will just point it up and you can run with it — "combine the office of probate judge with any judicial office inferior thereto," now, the problems that are found in this particular phrase we have discussed at great length when we were talking about the last sentence of section a, so I won't belabor you with this. In talking to many delegates, just this afternoon, some people have said they would agree to the combination of the probate court with the circuit court commissioner, but they wouldn't believe they could combine the probate court with the justice of the peace, so you have a whole lot of problems present here.

I, therefore, offer this amendment, and say that it should be passed on the basis of each of any 1 of the 4 phrases, but when you get all 4 of them together, it certainly should receive considerable consideration, and perhaps your support. I move the adoption of the amendment.

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Mr. Chairman, I would ask that the amendment be divided into 3 parts: that is, "The legislature may combine 1 or more counties into probate districts," being the first part; "or combine the office of probate judge with any judicial office inferior thereto in any county with less than 25,000 population with supplemental salary as provided by law," as the second part; and the third, "and shall do so on recommendation and report of the supreme court." I think that we are dealing with 3 particular ideas.

In addition, the amendment offered by Mr. Leppien referred to the first clause that I have read, and I would ask that the Chair might rule that that particular portion will not be in order, having been considered already.

CHAIRMAN VAN DUSEN: Mr. Danhof first requests the division of the question, and the question will be divided in accordance with his request.

Mr. Danhof, second, makes the point of order that the words "The legislature may combine 1 or more counties into probate districts or", as incorporated in Mr. Radka's amendments are the same words sought to be stricken by Mr. Leppien's earlier amendment which was rejected by the committee of the whole. The Chair will sustain that point of order and rule that that portion of the question is not in order and is not before the committee at this time. Therefore, the remaining portions of the question, the right of the legislature to combine the office of probate judge with any judicial office inferior thereto in any county with less than 25,000 population with supplemental salary as provided by law, and the final phrase, "and shall do so on recommendation and report of the supreme court" will be considered separately.

Mr. Radka.

MR. RADKA: I merely wanted to state, Mr. Chairman, I make no strong objection to this, but I think that our discussion on the floor this morning clearly indicated how closely interrelated all of these phrases which are contained between the 2 periods really are, and I am a little bit concerned. You raised the point of order when I was discussing a particular facet of this matter — I don't see how we can intelligently discuss this amendment without discussing all parts of just 1 simple sentence that has an awful lot of dynamite hidden in it.

CHAIRMAN VAN DUSEN: The Chair has ruled, Mr. Radka, that the words of your amendment, "combine 1 or more counties into probate districts or", have already been disposed of by the committee. The remainder of your amendment is in order and will be considered in 2 separate parts.

Mr. Higgs.

MR. HIGGS: Mr. Chairman and members of the committee, in part I am speaking for myself and not for the committee, and that would be with regard to the last clause, "and shall do so on recommendation and report of the supreme court". Speaking for myself, I feel that there is merit in what Delegate Radka says. I don't think it is necessary to the intent of implementing this section. With regard to — and I will vote that way, Mr. Radka — the combining of the probate judge "with any judicial office inferior thereto in any county with less than 25,000 population with supplemental salary as provided by law," I think that is the particular part of the question that is before us now, is that right?

CHAIRMAN VAN DUSEN: That is correct, Mr. Higgs.

MR. HIGGS: For the information of the delegates and Delegate Hubbs, the matter of the salaries of probate judges is like this: the smallest salary in the state of Michigan is $5,000; the legislature has provided by statute that the pay shall be at least $5,000 in every county. Counties are permitted, however, to supplement that salary. You start at $5,000 in counties under 5,000 population. It is increased $500 in counties from 5,000 to 10,000 population, and thereafter for each 10,000 it is an additional $500. The highest paid probate judges in Michigan are in Oakland county. The statutory salary is $18,500, and the county supplements that salary by paying an additional $5,000, and they have $23,500. In Wayne, the statutory salary is $18,500; their supplement is $4,000, and it is $22,500.

The concept of this particular section that is sought to be stricken is this: as a matter of economy and a matter of sound administration of the lower court system in the small counties — and you can decide what you want to do with

this. This is offered by the committee, I think, in good faith, not for the benefit of lawyers, but for the benefit of the people in that area — that in these very small counties, a county like Keweenaw, with 2400 people, the probate judge just doesn't have much to do with 2400 people in the county, but there is a base salary of $5,000. It is a place to build a court of limited jurisdiction. This was the idea, that in the very small counties, it would require a very small supplement. The legislature has taken care of this matter with regard to probate courts in general. As far as the committee is concerned, I do not recall any particular dissatisfaction with what the legislature had done with regard to salaries of probate judges, and we just left it alone. But we are giving an opportunity to the very small counties to build a court system, and we have given the flexibility to the legislature to provide for it.

CHAIRMAN VAN DUSEN: Mr. Leibrand.

MR. LUNDGREN: Mr. Chairman, I would have a point of order, first.

CHAIRMAN VAN DUSEN: Mr. Lundgren, state your point.

MR. LUNDGREN: That interesting ruling that the Chair just gave out would make me wonder whether the people on the next amendment should talk now or later, because upon the passage of this amendment depends whether we are going to have our amendment acted upon. Would you please rule on that?

CHAIRMAN VAN DUSEN: The Chair was just examining the amendment offered by Messrs. Lundgren, Perras and Plank with that in mind, Mr. Lundgren, and would recommend that Messrs. Perras, Lundgren and Plank participate in the debate on the questions currently before the committee. They do appear to be almost identical.

MR. RADKA: I raise another point of order, Mr. Chairman.

CHAIRMAN VAN DUSEN: Mr. Radka.

MR. RADKA: If you would examine the amendment that was offered this morning by Mr. Leppien, he moved to amend after "may" by striking out "combine 1 or more counties into probate districts or".

CHAIRMAN VAN DUSEN: That is correct.

MR. RADKA: And I question whether my amendment, where I struck out "The legislature", might change the entire meaning. The intent and purpose of my amendment was completely different from what Mr. Leppien had offered.

CHAIRMAN VAN DUSEN: The Chair thinks, Mr. Radka, as was earlier ruled, the proposal by the committee contemplates that the legislature may do 2 things and shall do 1 thing upon recommendation of the supreme court. One of the things which the committee proposes that the legislature may do was the subject of the Leppien amendment this morning which the committee has acted upon. The other thing which the legislature may do is to "combine the office of probate judge with any judicial office inferior thereto," and so forth, contemplated by your amendment. That portion of your amendment remains in order, as does the final portion dealing with what the legislature shall do upon recommendation and report of the supreme court.

The question, in the judgment of the Chair, is clearly severable. The Leppien amendment took care of the first portion of it, and the Chair's ruling is as stated earlier.

MR. RADKA: Might I call the Chair's attention to section 316 of Mason's, paragraph 6:

> The formality of a vote on dividing the question is generally dispensed with, as it is usually arranged by general consent. But if this cannot be done, then a formal motion to divide is necessary, specifying the exact method of division.

CHAIRMAN VAN DUSEN: The Chair will call Mr. Radka's attention to rule 51 of the rules of the convention:

> Any delegate may call for a division of the question, which shall be divided if it comprehends propositions in substance so distinct that one being taken away a substantive proposition shall remain for the decision of the convention. . . .

It does not require a vote of the committee.

MR. RADKA: Mr. Radka accepts the ruling of the Chair.

CHAIRMAN VAN DUSEN: The Chair is grateful.

Mr. Lundgren, have you a further point?

MR. LUNDGREN: I was just going to ask if he is accepting that for all of us. You are destroying the whole intent of the amendment here. I feel, if you take out one part of it, then you have nullified the whole thing, and I think the sponsors of an amendment have the proper authority to talk about their whole amendment.

CHAIRMAN VAN DUSEN: The Chair will call to the attention of Mr. Lundgren and the other sponsors of amendments pending that we have had a great many amendments, some of which attack one portion of the committee proposal, others of which attack other portions. To the extent that the questions are divisible, the delegates are entitled to have them divided, as they have been in accordance with the request of the chairman of the committee, Mr. Danhof.

Judge Leibrand.

MR. LEIBRAND: Mr. Chairman and delegates, I rise to speak with reference to the third division of Mr. Radka's amendment, which moves to strike the phrase or the clause, "and shall do so on recommendation and report of the supreme court." Traditionally, courts in this country have been created in about 3 ways. All of them are, more or less, legislative in character. First, through the medium of constitutions; second through legislatures; and third is the local courts, through home rule charters which are voted upon by the people.

In lines 10 and 11 of Committee Proposal 94, we embark upon a totally new concept, that of empowering the supreme court to direct the creation of courts and the alteration of court boundaries. All of the traditional processes — such as the constitutional convention, the legislative process, or the local charter process — involve long debate, public hearings, and an opportunity of the public to express their opinions. Here we embark upon a process where the Supreme Court of the state of Michigan, which, as I have observed before, may turn out to be an appointive body, can, by one stroke of the pen, alter districts and create courts.

This proposition has come up before this convention before, and I say, Mr. Chairman and delegates, we are embarking upon a dangerous voyage. I support division 3 of Mr. Radka's amendment.

CHAIRMAN VAN DUSEN: Mr. Norris.

MR. NORRIS: Mr. Chairman, fellow delegates, I rise to oppose the amendment and support the committee recommendation. There are some reservations that I have about it, but not the ones that are posed here. First of all, I think we have to recognize that the people of this state have grown, more and more, to look to the supreme court for advice and counsel with regard to the administration of justice in this state, and what I think the committee is doing in this recommendation is to take that into account and to give the supreme court certain means by which this might be accomplished, which are not any more than making strong recommendations on the basis of considered appraisal of the facts and appraisal of the way in which justice is administered. I think that the judicial power, as such, includes the power, on the part of the supreme court, to make recommendations and to make reports to those who have the power to implement recommendations and reports.

I do think that there has been a very difficult problem in this state with regard to the conducting of justice at the lower level. In the public interest — not in terms of the interest of the lawyers, but in terms of the public interest — and particularly the little people in this state, it is absolutely imperative that we begin to think in terms of the appropriate ways by which the administration of justice might be executed. I think the committee has done some original thinking in this area and ought to be complimented by both the lawyers and nonlawyers, and the public interest, for giving us the kind of formulation

that helps in a flexible way to deal with this problem. It promotes the opportunity of thinking in terms of family courts. It promotes the opportunity of thinking in terms of the function, if any, of the J.P.s in relation to the administration of justice on the local level, and I think the kind of formula that has been developed here is one that has within it the potential of intimate adaptation to the needs of communities, and leaves it up to the people who have the power to implement it in such a way that it will take into account some of the points raised by Mr. Hubbs, people who raise questions of economy, people who raise questions of the local concerns and the particular characteristics of the area.

I think that there has been some good thinking here, and I think it ought to be supported. And I think the amendment ought not to be supported.

CHAIRMAN VAN DUSEN: Mr. Lundgren.

MR. LUNDGREN: It appears that I am going to have to talk about our up coming amendment because all the other sponsors have left the floor, amongst quite a few others.

I again address a question, which I think I have talked 2 or 3 times about, and I will direct it to Mr. Danhof or anybody on the committee, the judicial committee. I would like to have you clearly state for the record what particular courts are going to be inferior, that the probate court might be joined with. Now, do you consider that we are going to continue to have justice of the peace courts after the legislature gets through with this, or not?

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Mr. Lundgren, you have answered your own question, after the legislature gets through with it. I will be very frank to tell — is Mr. Higgs here or has he left the hall? Mr. Higgs, Mr. Lundgren has made a particular point, this particular provision regarding these counties under 25,000, I will state to the committee, we discussed it very thoroughly, but Mr. Higgs, in particular, did a tremendous amount of research on this particular item, and the numerical designation was one, which, upon his research, he recommended to the committee and gave cogent reasons therefor.

I would respectfully suggest, Mr. Lundgren, that perhaps Mr. Higgs can give you a better idea as to what courts you will or will not have, or what he envisions this might or might not do. I am sorry that Mr. Habermehl had to leave for the afternoon. Mr. Habermehl put this in in the form of a delegate proposal and urged it, very strongly, upon the committee. He appeared and his testimony, as I say, is upon the record and the tapes. Naturally, he wanted Alpena county to be included and where we set the figure doesn't include Alpena county. He had an amendment in, but I think he withdrew it during his absence.

I know Mr. Higgs was present, and from that and from Mr. Habermehl's original discussion, this particular concept developed. If Mr. Higgs will take over, perhaps he can give you more explanation. If there is anything further, I will try to add to it. I would yield to the delegate from Bay City.

MR. LUNDGREN: That is perfectly all right, but you don't have to talk too long about it; just tell me what courts you have in mind. I have been trying to draw that out for a long time and it hasn't come out.

CHAIRMAN VAN DUSEN: Mr. Higgs.

MR. HIGGS: Courts inferior thereto would be courts of limited jurisdiction. Those would include —

MR. LUNDGREN: Yes, but what are they?

MR. HIGGS: I am coming to it.

MR. LUNDGREN: Okay.

MR. HIGGS: Those would include the circuit court commissioner's court, which a later proposal contemplates eliminating, and it would include justice courts, and it would include municipal courts.

MR. LUNDGREN: Let me ask you this: you are more aware of it than I am — except in counties that I have covered in one way or the other in different things — circuit court commissioner is not truly a court, it is one lawyer that accepts the job because nobody else wants it. So let's not delude ourselves that it is properly a court like we are talking about or you are trying to eliminate here. This is the thing that bothers me.

MR. HIGGS: Mr. Lundgren, I don't quite follow your point. Let me try. The circuit court commissioner's court, probably the most significant function that this court exercises in the counties of small population are cases involving the possession of real estate, that would involve the foreclosure of land contracts and the summary possession of real estate. At least now, that is my understanding. It is a fee court. They are paid on the basis of fees. They do have very little business. They are required to be lawyers. It is hard to get anyone to even take the job. There have been times in our county when we have had to go round looking for somebody to fill this function. Nobody really wanted to. In larger areas, and in Wayne in particular, it is a court. They have a number of judges and they have office space, and it is a different situation.

It was our thinking that because of the limited function and use of this court — but nevertheless, a very necessary function — that very conceivably this particular judicial function, with the exception of that part of the power of the circuit court commissioner to issue injunctions — we don't think that should be transferred to a court unless it is a court of record with a lawyer, if I may be so bold before this committee as to mention that awful word — we don't think probably that a municipal judge should have the power to issue an injunction that would restrain someone from doing something that may involve a very serious aspect of their business.

MR. LUNDGREN: Do you envision that the probate court should eventually take these kind of duties over? What I am trying to draw out is just what courts does the judiciary have in mind or don't they have in mind any courts? What if the legislature decides not to act, what are we going to have?

MR. HIGGS: Exactly what you have now.

MR. LUNDGREN: For 5 years.

MR. HIGGS: Well, in a period of 5 years —

MR. LUNDGREN: That is what is bothering me. There's no ifs, ands, or buts about it. It is in the constitution, and that is what is bothering me.

MR. HIGGS: In a period of 5 years, of course, it is conceived — I wonder whether we are in the right section, whether this is germane?

MR. LUNDGREN: Well, I think it is germane because all through this you are eliminating this and that. You have made a very strong supreme court, and it seems to me, as a layman, that you are creating a very strong probate court, and to a layman, I don't think that is what we want, in our smaller areas, let's say.

MR. HIGGS: Well, have I answered your question as to what courts were to be included?

MR. LUNDGREN: No, you haven't, because apparently your committee doesn't feel free to elaborate on it very much because you have chosen the path of elimination rather than the path of creation, and that is what is bothering me, and I think you have made your point and I think I have made my point, that you haven't created something for the future, except —

MR. HIGGS: Well, Mr. Lundgren, in a few words, the courts of limited jurisdiction below the circuit court include the probate court, the circuit court commissioners, justices of the peace, and municipal courts.

MR. LUNDGREN: And the other day, the chairman said that the county courts, if created — he felt that they would be inferior to a probate court. Now, you can correct me if I am wrong, but that is what, I believe, was said the other day here on the floor.

MR. HIGGS: Dr. Joiner advised our committee that when we used the words "courts of limited jurisdiction", we are referring to courts below the level of the circuit court. We used the word "inferior;" this may be something that we should clarify in style and drafting.

But those are the courts that we were thinking about.

MR. LUNDGREN: Thank you. I am stepping on eggshells here because I am not a lawyer.

MR. HIGGS: That is all right.

MR. LUNDGREN: But, I think the point is pretty well made that we haven't created something that the state is going to need, and it might come back to haunt us.

MR. HIGGS: Well, the concept — if I may, Mr. Chairman — is that we are trying to provide the necessary flexibility in the legislature so that it can create courts to take over these functions that will be adaptable to the varying needs of the different parts of the state. It is not conceived by the committee that we should lay that out, because of the differing needs that were presented to the committee.

MR. LUNDGREN: Well, I shall not talk any further to the point, thank you.

CHAIRMAN VAN DUSEN: For what purpose does the gentleman rise, Mr. Leibrand?

MR. LEIBRAND: A question to Delegate Higgs, if I might. Am I out of order?

CHAIRMAN VAN DUSEN: If it relates to the subject which has just been discussed, the Chair thinks it would be easier if you proceeded at this point so we might have some continuity.

MR. LEIBRAND: May I then direct a question to Delegate Higgs?

CHAIRMAN VAN DUSEN: You may proceed, Judge Leibrand.

MR. LEIBRAND: Delegate Higgs, you have just spoken about other provisions here enabling the legislature to create other inferior courts, is that correct?

MR. HIGGS: Inferior courts, which I would conceive —

MR. LEIBRAND: Of limited jurisdiction.

MR. HIGGS: That is what I understood.

MR. LEIBRAND: Then, by Committee Proposal 94, aren't we authorizing the Michigan supreme court to wipe out these other inferior courts or combine them with others?

MR. HIGGS: Delegate Leibrand, I have already stated, as far as I am personally concerned, I intended to vote against that part of the question. Speaking for myself, this is not the recommendation of the committee, but I, myself, would leave it to the legislature entirely. I don't think the committee feels strong about it.

CHAIRMAN VAN DUSEN: Mr. Hubbs.

MR. HUBBS: Mr. Chairman, have you taken a census lately?

CHAIRMAN VAN DUSEN: The secretary advises that he has just taken a census and that there is a quorum present.

MR. HUBBS: Did he divide it into laymen versus barristers, might I ask? I want to know whether the audience is sympathetic or not.

CHAIRMAN VAN DUSEN: The secretary advises that he made no separation. If he does, which side would you like to be counted with? (laughter)

MR. HUBBS: I was trying earlier to get to be an honorary barrister. I was hoping that someday that would be forthcoming, but in the meantime —

CHAIRMAN VAN DUSEN: You are in your sophomore year, Mr. Hubbs. (laughter)

MR. HUBBS: Thank you, sir. In the meantime — getting back to business — I can well understand now why my earlier amendment was defeated. I didn't get it up to the desk in the right order, or at least I hope I didn't get it up in the right order.

Here is the situation as it now exists. The reason I put my amendment in was to guard against a contingency that I know is forthcoming, provided this section carries as it is. And I would heartily agree with Delegates Lundgren, Perras, Radka, Leibrand and others who have suggested that we delete the lines starting with 8, "combine courts of probate judge with any judicial office inferior thereto in any county with less than 25,000 population with supplemental salary as provided by law, and shall do so on recommendation and report of the supreme court." This is what I arose to agree with. I know why my amendment was defeated. I support this amendment, and I hope that we can strike this language out of here. Thank you.

CHAIRMAN VAN DUSEN: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, as you may have noticed, I have, right along, supported a strong supreme court. I think it is extremely important that this supreme court have power to make rules, power to enforce procedure, general supervisory power over the inferior courts, and for that reason, I would like to — not for that reason necessarily — but I would like to support the second divided part of the pending amendment, not support the amendment, but support the original committee language.

Now, when we get down into this third part, we are talking about something else. We are talking about something that I haven't supported, and I think it is extremely important that we all stop and take a look at this proposition. Now we are saying that the supreme court is going to have the power to create inferior courts, if that word "shall" means anything, and I guess maybe some think it doesn't, but I think it does. I think the legislature is obliged to respect that kind of language, and I took a look at the federal constitution to see what that said on the subject, and it said that the judicial power of the United States shall be vested in one supreme court, and such inferior courts as congress may, from time to time, ordain and establish.

We don't have a congress in Michigan, but we have a legislature in Michigan, which is somewhat analogous to a congress, and that is where courts should be created, not in the supreme court. So, with regard to that last part, I am opposed to it, and with regard to that, I do not think the committee position ought to be sustained.

Certainly the legislature should have the right and the authority as the years go by — and we are not writing this constitution for 1962, contrary to what may appear to be the case, we are writing it, perhaps, for another 50 years. I am sure that in 1907 they couldn't envision the problems that we have today, and I am just as sure that we can't envision the problem that the succeeding generations will have a half a century from now. But, at no time do I want it to be thought that I support the proposition that the Supreme Court of the state of Michigan can create inferior courts. That is purely a legislative function and ought to remain so.

CHAIRMAN VAN DUSEN: Mr. Ostrow.

MR. OSTROW: Mr. Chairman and delegates, I want to oppose the amendment, and in the process of doing that, I would like to straighten out what I consider a few misinterpretations here. When Mr. Higgs quoted Dr. Joiner in speaking of courts of limited jurisdiction and saying that they were inferior to the circuit court, he was talking about Committee Proposal 90. To get all this into perspective, in Committee Proposal 90, we established the 5 tier court system. There, when we were speaking of courts, we spoke of the supreme court, the appellate court, the trial court of general jurisdiction, a probate court, and other courts of limited jurisdiction, whatever they may be.

Now we come to this proposal, and in this one — well, first we ought to have the history of this particular part of this proposal. We had voted down the general county court. We had disposed of the supreme court — well, we hadn't disposed of the supreme court, we never did do that adequately. We disposed of the other courts and we came to the probate court. We agreed on keeping a probate court. We did not want to do anything to the small counties, we wanted to do something for the small counties.

It was represented to us that the small counties needed this, so we provided that in these small counties under 25,000, the probate court could be merged, not horizontally with courts of equal jurisdiction, or not taking in jurisdictions greater than theirs, but with courts "inferior thereto", referring to inferior to the probate court, and not inferior to the circuit court.

Now, when you go to 96, in 96 we abolish, within 5 years, the circuit court commissioner and the justice of the peace.

We do not abolish, in 96, the municipal courts. They were created by a statute, and we say in 96 they may retain their jurisdiction and their powers unless and until the legislature abolishes them or changes them. So, the only thing that this can mean is that the probate court will or can, if the legislature so sees fit, be merged downward with the circuit court commissioner and the probate court. As for municipal courts, the legislature always could do what they wanted to with them.

CHAIRMAN VAN DUSEN: Mr. Perras.

MR. PERRAS: Point of information, Mr. Chairman. I would like to ask the chairman of the committee or Mr. Higgs, if they in their committee gave any thought to letting the counties that might be involved in this merger of probate courts — if they gave any thought to these counties, probably, letting these people vote thereon. Was that brought up in your committee at all, Bob?

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Is a discussion of this type pertinent to the present amendment, Mr. Chairman? I don't want to get started if it is not. We are not talking now about the combining of various counties into districts. The Chair has ruled that is not under discussion.

MR. PERRAS: My question, Mr. Danhof, was the combining of 1 or more counties into probate districts, that is what my question was about, and to the point that it was considered that the people of these various counties might bring this up together and vote on doing this without giving that power to the legislature.

CHAIRMAN VAN DUSEN: Mr. Perras, if your question does relate, as the Chair believes you just said it did, to combining 1 or more counties, the Chair would rule that you were not proceeding in order. If your question relates to the combining of the probate courts with judicial offices inferior thereto, your question would be in order.

MR. PERRAS: Well, that was what my question was. I asked if it was thought of in the committee that the people of those counties could have had the chance to vote on it themselves, without giving that power to the legislature. That was my question, Mr. Chairman.

CHAIRMAN VAN DUSEN: Mr. Danhof, does the gentleman care to answer?

MR. DANHOF: Mr. Perras, the answer is, yes. However, we are not writing in any of these provisions any self executing document of any kind. We are not making anything that is accomplished upon the passage of this constitution. We felt, to specifically answer your question, it would best be left to the legislature to determine the method; whether they wanted the people to vote, whether they wanted the board of supervisors to consider it, whether they wanted to shoot dice for it or draw straws; this could best be left to the legislature. On that basis, we felt that this was a matter that could be handled in that particular regard. The answer to the question is, yes, we did discuss it. We did not feel we had the foresight to write in what might be the proper means, and I still think the question is directed basically to the first clause of this particular sentence more than the second, Mr. Perras.

MR. PERRAS: Thank you, Mr. Chairman.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Radka. Before stating the question the secretary will ring the bell.

A division has not yet been requested. Mr. Everett? Mr. Everett requests a division on the Radka amendment. Is the demand supported? It is supported.

MR. DANHOF: Mr. Chairman.

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Parliamentary inquiry. Will we vote on the first clause under consideration?

CHAIRMAN VAN DUSEN: The question will be put separately, Mr. Danhof. In order to avoid repetition, the Chair thought we might get a little more of the committee present. The question is upon the amendment offered by Mr. Radka, which has been divided. The secretary will read the portion of the Radka amendment first to be voted upon.

SECRETARY CHASE: The amendment, as now divided, will be as follows:

1. Amend page 1, line 8, after "districts" by striking out the comma and "or combine the office of probate judge with any judicial office inferior thereto in any county with less than 25,000 population with supplemental salary as provided by law,".

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Mr. Chairman, on this part, the committee feels that this would be a step forward. It would again give the legislature a great deal more leeway in this particular field. We would urge, very strongly, that this part of the amendment be defeated.

CHAIRMAN VAN DUSEN: Those who are in favor of the — Mr. Ford.

MR. FORD: With respect to this portion of the amendment, since I didn't vote with the committee on this, it might appear that we are going against them, but with respect to this particular portion of it, I wish to support the amendment. I think that we have been persuaded, some of us, by the arguments made by people like Mr. Radka. There is one other, and that is that it occurred to some of us in looking at this that we are vitiating, in part, a concept that we adopted this morning, that juveniles should not be lumped together with adult criminals, and it now appears that in one part of the section we are saying they shouldn't and then in another part we are saying in counties of under 25,000, you can lump them together if you want to. It doesn't seem to be consistent, and for this reason I support the present part of the Radka amendment.

CHAIRMAN VAN DUSEN: The question is on the portion of the Radka amendment which has been read by the secretary dealing with combining the office of probate judge with judicial offices inferior thereto in counties with less than 25,000 population. Those in favor of the amendment 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 adoption of this portion of the amendment, the yeas are 51; the nays are 47.

CHAIRMAN VAN DUSEN: The amendment is adopted. The question is now upon the second portion of the Radka amendment, which the secretary will read.

SECRETARY CHASE: The last part of the Radka amendment is:

1. Amend page 1, line 10, by striking out "and shall do so on recommendation and report of the supreme court".

CHAIRMAN VAN DUSEN: On this portion of the Radka amendment, the Chair will recognize Mr. Boothby.

MR. BOOTHBY: Mr. Chairman and members of the committee, I am not going to spend a long time on this particular area. As you well know, I had some comments on this whole question yesterday regarding whether the supreme court should be able to force the legislature to make decisions regarding the court system and the court setup. I understand, of course, that the committee of the whole has now struck out much of this section and, of course, to be totally consistent, probably should strike out the second section just to be consistent. However, I do know something about striking out a section in the committee of the whole and having it not sustained when it reaches the floor of the convention, so I am going to make a few comments which otherwise would not be necessary.

The particular section which includes the provision that the supreme court may make recommendations, and that upon their recommendation, the legislature shall carry out their mandate, in this particular section, this particular proposal is a little different than the prior proposal, Committee Proposal 93. Committee Proposal 93, when the supreme court was given power to tell the legislature what to do, they were telling the legislature what to do in regard to the setting up of their judicial circuits. This might be construed to be a function of the administrator of the supreme court. I did not agree with this, but I can understand how this might be construed. However, this particular proposal goes much further than Committee Proposal 93, because this proposal

gives the power to the supreme court to tell the legislature how much money it is to spend. It says that they may provide for supplemental salary as provided by law. In other words, it is giving the supreme court the power to tell the legislature what to do in the setting of certain salaries, additional supplemental salaries. In addition, as has been pointed out by Mr. Radka, this committee proposal —

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

CHAIRMAN VAN DUSEN: Excuse me, Mr. Boothby, Mr. Higgs makes a point of order. Would you state your point, Mr. Higgs?

MR. HIGGS: It is my understanding this portion was stricken that Mr. Boothby is talking about. It never did provide for the supreme court setting salaries, but I believe it has been stricken.

CHAIRMAN VAN DUSEN: The Chair believes your point is well made, Mr. Higgs. Would you confine yourself to the remaining portion of the amendment, Mr. Boothby?

MR. BOOTHBY: Very well. The reason for my comment was because I had an experience yesterday. I would like to direct a couple of questions, at this time, just to clarify my own particular thinking. Mr. Higgs, I believe, a few minutes ago made some comment in reference to this particular provision of the amendment, to the latter portion which provides that "and shall do so on recommendation and report of the supreme court." As I understood Mr. Higgs, he said that he had no real objection to having this part of the section removed. I am wondering if he would clarify his position on that?

CHAIRMAN VAN DUSEN: Mr. Higgs.

MR. HIGGS: Yes. I am speaking personally and, of course, I cannot speak in behalf of the committee, but I did say that. That is a personal thing. I don't feel that is necessary.

MR. BOOTHBY: I would also like to direct a question to Mr. Everett, because he has spoken on this judicial section a great deal, and I respect his thinking. I am wondering whether he has any real objection to having this latter provision stricken from the committee proposal?

CHAIRMAN VAN DUSEN: Mr. Everett.

MR. EVERETT: Mr. Chairman, Mr. Boothby, I felt when the part which has just been taken out was still in, that probably we would be wrong in leaving this to the supreme court. I would say, now it is somewhat academic. I would certainly not object if it were taken out. Again, I am expressing a personal opinion. I am not speaking for the committee. I certainly wouldn't object to its being taken out. I would say that if we had left the other part in, it might be preferable to take it out.

MR. BOOTHBY: Thank you very much. I am moved by the comments of these members of the judicial committee. I, personally, have felt that the supreme court should not be empowered to tell the legislature what to do. I am now particularly impressed that this provision should not be left in the constitution because these very highly regarded members of the judicial committee also have indicated that they have no particular objection to having it removed, and I would then ask that the committee of the whole concur and vote to remove this provision from the committee proposal, and vote yes on the latter portion of the Radka amendment.

CHAIRMAN VAN DUSEN: The question is on the remaining portion of the Radka amendment, to strike the words, "and shall do so on recommendation and report of the supreme court". Mr. Danhof.

MR. DANHOF: Mr. Chairman and members of the committee, by reason of the action of the committee of the whole, the matter now reads, "The legislature may combine 1 or more counties into probate districts and shall do so on recommendation and report of the supreme court".

Now, we went all through this yesterday, and I agree with Mr. Boothby, there is no use taking a great deal of time. When I looked at the last vote which we took, between the reds and the greens and the blacks, why, it looked to me like the blacks were ahead. Again, we have gone through this. It is as Dr. Norris has pointed out, the reason why we did it. The middle section has been removed. I think now it is exactly as we have it with the circuits, when we talked about altering or creating or increasing the number of districts, there is no particular difference. I would urge the defeat of the amendment.

CHAIRMAN VAN DUSEN: The question is on the final portion of the Radka amendment. Mr. King.

MR. KING: Mr. Chairman and delegates, I don't want to belabor this point. I am somewhat embarrassed, because I didn't think that the middle part was going to disappear, and now that the middle part has disappeared, my remarks concerning the latter part don't seem nearly so important. So, I am not going to take a position one way or another. I merely want to explain how I got in this awkward situation and I trust that if and when the committee rises, with regard to this section, and if and when there is a full committee here, that probably the second part will be back in, at which time I can oppose the third part.

CHAIRMAN VAN DUSEN: The question is on the final portion of the Radka amendment. Mr. Heideman.

MR. HEIDEMAN: Mr. Chairman and fellow delegates, yesterday I spoke on this question of "shall" and "may", and several days before on the same subject. I think that the "shall" here was as pertinent yesterday with respect to giving the supreme court this power, in that the interpreting of the law is a judicial function and the creation of courts is a legislative function, and we were creating, hereby, a supreme legislative body out of the supreme court.

The federal constitution clearly says the legislative power shall, and the executive power shall, and the judicial power shall be vested in, and then goes off to "may", on the permissive; from the mandatory "shall" to the permissive "may". In addition to that language, a very careful distinction also is made between shall and may in the federal constitution. I went through the judicial article, article V of the model state constitution of the national municipal league. In the judiciary article, I counted 26 shalls and 15 mays, used very carefully and very advisedly.

Delegate Boothby and I both had submitted an amendment to the same effect, to strike this last part of the language, which reads "and shall do so on recommendation and report of the supreme court". So, I support the amendment in this regard.

CHAIRMAN VAN DUSEN: Mr. King.

MR. KING: Mr. Chairman, just a brief question. I would like to ask the chairman of the committee if it was the intent of the committee that this last phrase, "and shall do so on recommendation and report of the supreme court", was meant to apply to the first phrase, "The legislature may combine 1 or more counties into probate districts", or just specifically what was it meant to refer to?

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Mr. King, after 5 days, I am not sure what we all referred to, and I will state that it was my intention that it referred to this as it now applies, yes, the same as to creating, altering or changing circuits, that there would be a possible study and that we meant it in the same direction as we would for creating new circuits out of old circuits, by splitting them; the same deal would prevail, the same thinking. We were consistent, at least we tried to be, from the circuit court down to probate court.

CHAIRMAN VAN DUSEN: The question is on the final portion of the Radka amendment. Is there any delegate who desires to have it read further? Those in favor of the Radka amendment will vote aye, and 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 adoption of this part of the amendment, the yeas are 61, the nays are 35.

CHAIRMAN VAN DUSEN: The amendment is adopted.

Mr. Danhof.

MR. DANHOF: Mr. Chairman, we have completed this

section. There are more amendments. I looked at the last vote and it got down to 90 something, I think it totaled.

I move the committee do now rise.

CHAIRMAN VAN DUSEN: Mr. Danhof moves that the committee do now rise. The question is on the motion of Mr. Danhof that the committee now rise. Those in favor will say aye. Those opposed will say no.

The motion prevails. The committee will rise.

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

VICE PRESIDENT HUTCHINSON: The Chair recognizes the delegate from Oakland, Mr. Van Dusen.

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

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 94,** A proposal pertaining to the probate court; has adopted an amendment thereto; and has come to no final resolution thereon. This completes the report of the committee of the whole.

VICE PRESIDENT HUTCHINSON: Any further announcements?

SECRETARY CHASE: Yes, Mr. President. Will the delegates please leave your bound volume of journals here over the weekend if at all possible, so that the staff may divide them and put the larger portion of them in some permanent binders and leave your ringbook binders to be added to from day to day.

We have the following requests for leave of absence: Mr. Farnsworth wishes to be excused from the session of Monday; Mr. Tubbs, from the afternoon session of Monday; Mr. Spitler, from Monday's session; and Mr. Donald Doty wishes to be excused from the sessions of March 6 and 7.

VICE PRESIDENT HUTCHINSON: Without objection, the several requests will be granted. The Chair hears no objection and it is so ordered.

MR. SNYDER: Mr. President.

VICE PRESIDENT HUTCHINSON: Delegate Snyder.

MR. SNYDER: I believe I filed a request with Mr. Chase for an excuse for Monday also.

VICE PRESIDENT HUTCHINSON: Mr. Snyder requests excuse from Monday's session.

SECRETARY CHASE: I think we took care of that this morning, Mr. Snyder. I am not sure, but we will make sure.

VICE PRESIDENT HUTCHINSON: Without objection, it will be so ordered. It is granted.

What is the pleasure of the convention? The Chair recognizes the lady from Wayne, Miss McGowan.

MISS McGOWAN: Mr. President, I move that the convention now stand adjourned.

VICE PRESIDENT HUTCHINSON: The question is upon the motion to adjourn. All those in favor will say aye; opposed will say no.

The motion prevails and the convention stands adjourned until Monday next at 4:00 o'clock in the afternoon.

[Whereupon, at 3:50 o'clock p.m., the convention adjourned until 4:00 o'clock p.m., Monday, March 5, 1962.]

NINETY-SECOND DAY

Monday, March 5, 1962, 4:00 o'clock p.m.

PROCEEDINGS

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

Our **invocation** today will be given by one of our own delegates, Allen Rush of Macomb county. Will you please rise.

MR. RUSH: Let us pray. Our heavenly Father, we recognize Thee as the giver of all good and worthwhile gifts, the Father of all mankind, and the Author of life, liberty and justice.

As we reconvene this afternoon to try to solve the many problems that confront us, may we put aside our selfish desires and realize the need for Thy divine guidance. Help us to discern the truth, to refrain from being misled by popular slogans, to be able to judge the facts and above all, to seek Thy help.

We thank Thee for the heritage that is ours, for the sacrifices and vision of our forefathers. May we be equal to the task that has fallen to us—to preserve and pass on to posterity the many blessings that we have enjoyed. Give us strength, courage and wisdom to meet this challenge. These things we ask, our Father, in the name of our Savior and Redeemer, Jesus Christ. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary.

May I call your attention to the fact that last Friday when the roll call was taken there were 15 delegates present who did not indicate they were present. This is rather difficult for the secretary and his staff. So if you are in your seats, or when you come in, will you please register yourself present. Thank you.

SECRETARY CHASE: Has everyone who is here voted? The machine is locked. The attendance will be recorded.

Mr. President, a quorum of the convention is present.

Prior to today's session, the secretary received the following requests for leave:

Messrs. Kuhn and Stamm, from this afternoon's session; and Messrs. W. F. Hanna and Page, from today's session; and Messrs. Downs, Murphy, Nord and Wilkowski are all ill with this virus that is going around and wish to be excused indefinitely.

Mr. Pellow; from today's session and the sessions of the week.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. Dade, Downs, Farnsworth, W. F. Hanna, Miss Hart, Messrs. Hoxie, Kuhn, Lawrence, Murphy, Nord, Page, Pellow, Snyder, Spitler, Stamm, Suzore, Tubbs, Tweedie and Wilkowski.

Absent without leave: Messrs. Allen, Bledsoe and Wood.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings, the following delegates entered the chamber and took their seats: Messrs. Allen, Bledsoe, Kuhn, Lawrence, Spitler, Stamm, Tubbs and Wood.]

Reports of standing committees.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 11 of that committee, reporting back to the convention **Committee Proposal 13,** A proposal respecting the physically, mentally or otherwise seriously handicapped;

with the recommendation that the style and form be approved.

William B. Cudlip, chairman.

The question is now on the adoption of the resolution, as substituted. Those in favor will say aye; opposed, no.

Resolution 57, as substituted, is adopted.

SECRETARY CHASE: The committee on rules and resolutions, by Mr. Van Dusen, chairman, reports back to the convention **Resolution 72,** A resolution amending rule 57 of the rules of the convention; without amendment, and with the recommendation that the resolution be adopted.

R. C. Van Dusen, chairman.

For Resolution 72 as offered, see above, page 1067.

PRESIDENT NISBET: According to the rules, this will lie over for 2 days.

SECRETARY CHASE: That is all of the standing committee reports at this time, Mr. President.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: Motions and resolutions.

SECRETARY CHASE: No resolutions on file.

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, while there are no resolutions on file, the rules committee authorized me, as its chairman, at its meeting last Friday to move, and I move at this time, that **Resolution 45,** A resolution to provide a schedule for completing the work of the convention by March 31, 1962; as amended by Resolution 75, be amended by deferring each of the remaining dates for 2 weeks. This would simply put over the deadline for the completion of the work of the committee of the whole until March 21 and each of the succeeding dates would similarly be postponed for a period of 2 weeks. The action of the committee was substantially unanimous — I believe there was one dissenting vote — and I urge the adoption of the motion at this time.

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

The motion prevails.

Following is Resolution 45 as amended:

A resolution to provide a schedule for completing the work of the convention by April 14, 1962.

Resolved, That:

1. All public hearings by substantive committees shall be completed on or before December 21, 1961, unless otherwise authorized by the convention. This shall not preclude a committee from hearing witnesses invited by the committee.

2. All substantive committee hearings on delegate proposals shall be completed on or before January 5, 1962.

3. All substantive committee proposals and supporting reports shall be submitted to the convention and placed on general orders in accordance with rule 57, paragraph 2, on or before January 31, 1962.

4. The committee of the whole shall complete its consideration of all committee proposals and make its reports in accordance with rule 57, paragraph 4, on or before March 21, 1962.

5. The committee on style and drafting shall complete its consideration of all committee proposals and make its reports in accordance with rule 57, paragraph 5, on or before March 23, 1962.

6. Second reading of all committee proposals shall be completed on or before March 30, 1962.

7. The final report of the committee on style and drafting shall be made in accordance with rule 57, paragraph 8, on or before April 6, 1962.

8. The convention shall finally adjourn on or before April 14, 1962.

MRS. HATCHER: Mr. President.

PRESIDENT NISBET: Mrs. Hatcher.

MRS. HATCHER: I suppose it's too late to ask a question as to the purpose and perhaps the finality of extending the convention date from 2 weeks to 2 weeks. I would like to, if possible, ask for a point of special privilege at this time.

PRESIDENT NISBET: You may ask the question.

MRS. HATCHER: I'd like to ask Mr. Van Dusen if this means that the 2 weeks that the committee has extended, does that mean that this is a deadline? My purpose for asking this is that I am sure that I, as many other delegates, would like to plan future schedules, and I would like to have some idea whether or not we can assume that this will be the final date or will we be continuing to extend the convention 2 weeks at a time.

PRESIDENT NISBET: Mr. Van Dusen, do you care to answer or can you answer? (laughter)

MR. VAN DUSEN: The gentleman wishes he knew the answer. Mr. President, obviously, the rules committee hopes that these dates may be met by the convention. We don't regard them as hard and fast. We feel that the experience of the convention thus far is such that any dates established are somewhat unpredictable. I think, however, that if the work of the committee of the whole can be completed within a period between now and March 21, there is reasonable likelihood that the remainder of the dates can be met. We are hopeful, but we can't promise, Mrs. Hatcher.

PRESIDENT NISBET: Dr. Pollock.

MR. POLLOCK: Mr. President, could I ask Mr. Van Dusen whether he is adjusting the ruling of the attorney general so that the convention can take some appropriate action on a different date?

MR. VAN DUSEN: Unfortunately, Mr. President, Dr. Pollock, that is not within the province of the rules committee.

MR. POLLOCK: I understood that the president had asked the chairman of the rules committee to consider ways and means if we did not meet the original deadline. Am I not correct about that?

MR. VAN DUSEN: Mr. President and Dr. Pollock, the rules committee has that matter under consideration. At our last meeting we agreed to devote a substantial portion of a succeeding meeting to the study of that particular point.

MR. POLLOCK: There is no reason to think that it is a hopeless task, is there? (laughter)

MR. VAN DUSEN: I do not know the answer to that, Dr. Pollock. (laughter)

PRESIDENT NISBET: In the light of that comment and before we go into general orders, I happened to read something this week. I don't think it applies — I'm sure it doesn't apply to anybody here — but it might have application. This is what I happened to read, "It is my understanding that for those who speak by the yard and think by the inch there is a ceremonious treatment by the foot." (laughter) With that start for the week, the Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, before we get to general orders of the day, may I move that the order of second reading be passed for the week.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that the order of second reading be passed for the week. Those in favor say aye. Opposed, no.

The motion prevails. Mr. Van Dusen.

MR. VAN DUSEN: Now, 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.

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

The motion prevails.

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

CHAIRMAN VAN DUSEN: The committee will be in order.

When the committee last met we had under consideration **Committee Proposal 94,** A proposal pertaining to the probate court. Certain amendments have been adopted to section a of Committee Proposal 94 and the secretary will read at this point section a as it currently stands after the amendments which have thus far been adopted by the committee of the whole.

For last previous action by the committee of the whole on Committee Proposal 94, see above, page 1417.

SECRETARY CHASE: Section a, as amended, now reads as follows:

In each county organized for judicial purposes, there shall be a probate court. The legislature may combine 1 or more counties into probate districts, ...

Then going down to line 11:

The jurisdiction, powers and duties of such courts and of the judges thereof shall be prescribed by law. They shall also have original jurisdiction in all cases of juvenile delinquents and dependents.

CHAIRMAN VAN DUSEN: Are there further amendments to section a of Committee Proposal 94?

SECRETARY CHASE: Mr. Faxon offers the following amendment —

MR. MAHINSKE: Point of information, Mr. Chairman.

CHAIRMAN VAN DUSEN: Mr. Mahinske, state your point.

MR. MAHINSKE: I notice in the journal which we just received, on page 697 we had the Leppien amendment, which was adopted, as I understand it —

CHAIRMAN VAN DUSEN: The Leppien amendment was not adopted, Mr. Mahinske.

MR. MAHINSKE: I thought the motion prevailed here. Oh, I see here. So the Leppien amendment was not adopted?

CHAIRMAN VAN DUSEN: The Leppien amendment was not adopted.

MR. MAHINSKE: So we still have in the article here that there can be combining of counties and probate districts?

CHAIRMAN VAN DUSEN: That is correct. Mr. Secretary, will you proceed to read the next amendment.

SECRETARY CHASE: Mr. Faxon has offered the following amendment:

1. Amend page 1, line 14, after "dependents" by inserting "except that juveniles shall not be tried in court as adults".

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Faxon. Mr. Faxon.

MR. FAXON: Mr. Chairman, members of the committee, this was Father Dade's amendment. He was unable to be here today and he asked that I offer it for him. I will read the remarks which he prepared toward this effect.

On Thursday when this matter was under thorough discussion, we asked a question of Delegate Ford. We hoped, in the interest of working out a knotty problem, he would be most helpful. His answer was neither informing, nor illuminating, but full of confutation.

This amendment seeks to put in the constitution in simple language the safeguarding of a basic right for the youthful offender. The complexion of our courts may change. However, human weakness and frailty of human nature will ever be realities of human existence.

In our accelerated society of today we may come to a time when the sympathetic and skillful understanding of the juvenile may be dulled. I feel it is fundamental for the growth of the kind of world we want to live in, that our provision should be absolute in the law of our state.

I urge support of this amendment. It is my opinion that these amended words express the consensus of feeling in the hearts and minds of so many delegates on last Thursday. Sincerely, Malcolm G. Dade.

That will be all the comments that I have to make. Thank you.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Faxon. Mr. Danhof.

MR. DANHOF: Mr. Chairman, members of the committee, I think this amendment was more apropos at the time that we had the original committee proposal before us. I am not sure at this time particularly what it adds, if anything. I think that we have a matter here which does not define any particular restriction. The legislature has provided for the method by which juveniles shall be handled within the probate court. It sets up the procedure and method. I think that this particular matter is a legislative matter and is something that we should not write into the constitution tied in particular to the probate court section. Perhaps if there is to be such a section it should be handled within the civil rights section, as Dr. Nord pointed out when we discussed this particular matter on either Thursday or Friday. Accordingly, for that reason and for the reason that it is a legislative matter, I would urge the defeat of the amendment.

CHAIRMAN VAN DUSEN: Mr. Hodges.

MR. HODGES: Mr. Chairman, I have an amendment quite similar to this on the secretary's desk but I will speak on this amendment and I will speak in favor of it because it is similar.

Now, the argument that this is statutory perhaps has some weight except that all of the discussion on the previous battle of leaving jurisdiction within the probate court seemed to hinge on the fact that most of the delegates felt we should not allow children while they are juveniles to be taken into criminal adversary proceedings to be tried. Now, if this is a prevailing thought, some language similar to this is necessary to plug the gap or the hole in this thinking. At the present time, children between the ages of 15 and 17 may be waived. While the probate court has original jurisdiction, they may be waived on motion of the prosecutor, and if accepted by the probate court, waived to a court of criminal jurisdiction, namely, the circuit court or in Detroit, the recorder's court, and tried as adults. If you want to prevent this, it would seem from the discussion that was had the other day that this would be the way to do it. It is no more statutory in nature, I submit, than the whole article placing the jurisdiction of juveniles in the probate court. And it seems to me that the great sentiment on the floor was to keep this because I think everyone feels that this is the type of court, the non-adversary proceedings, where juveniles should be tried. And until or unless we have language to this effect, I believe that we will run the risk of trying children as they are presently being tried in courts of criminal jurisdiction.

This amendment, I think, has one fault in it, and that is that it sets no age limit, so it would be easy for the legislature if it was of a mind, to lower the age of what is considered a juvenile to a point that will still allow juveniles to be taken into courts of criminal jurisdiction. Both Judge Gadola and I are cosponsoring an amendment to take care of this. But I will have to stand and rise in support of this amendment at the present time.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Faxon. Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, if it is the intention of this amendment to prevent the present rule of law which prevails in permitting the probate court to waive jurisdiction when it sees fit, I certainly would oppose it. I see no reason why under the present circumstances, with severe crimes being committed in this state by juveniles, it should not be possible if in the opinion of the probate judge he thinks it desirable to waive them to the court of criminal jurisdiction. This applies, of course, only as provided by law by the legislature to juveniles of certain ages. Thank you.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Faxon. Mr. Hodges.

MR. HODGES: I think the problem Mr. Stevens is speaking to, Mr. Chairman, is one that we are trying to prevent. It seems that when you have a particular heinous crime, or one that arouses public emotion, it is plain this is when you get the waiver of the juvenile and the pressure upon the probate court. And I would feel probably that the pressure would probably be stronger outstate than our own juvenile setup, where we've got a special court for it. But this is the very reason that many of us feel something of this nature is needed. Otherwise, when the public pressure builds up, they are waived, and it isn't the particular crime that makes the difference. If a person is a juvenile, I think we have come to the point of history and time where we feel that he should be treated in a different manner. And I submit that one problem you run into if you don't treat him in a different manner, if you get him in a jury trial in a court of criminal jurisdiction and you have a 15 or 16 year old on the stand — I think many attorneys have had the experience that a jury is very reluctant to do anything to convict a child of that

age in a criminal court — and as a result, chances are many times the child will be acquitted, will have no type of training or any type of custody over him when very well he might need some real help and that type of help that he might get through the probate court and through a juvenile court.

CHAIRMAN VAN DUSEN: Mr. Mahinske.

MR. MAHINSKE: I'd like to ask for a reading of this.

CHAIRMAN VAN DUSEN: Will the secretary please read the amendment.

SECRETARY CHASE: The amendment is:

[The amendment was again read by the secretary. For text, see above, page 1432.]

MR. MAHINSKE: I'd like to ask the proponents of this amendment a question through the Chair, if they care to answer it.

CHAIRMAN VAN DUSEN: If Mr. Faxon cares to answer it. Mr. Faxon is not here to answer.

MR. MAHINSKE: Well, without giving him his day in court under his own amendment here, I'll have to state that I would be opposed to this because this is a flat mandatory prohibition against waivers of any type. Frankly, I don't believe that is what —

CHAIRMAN VAN DUSEN: Mr. Faxon has rejoined us, Mr. Mahinske, if you now wish to —

MR. MAHINSKE: I see that Mr. Faxon is back here. I would like to ask if it is your intent to constitutionally prohibit waivers?

CHAIRMAN VAN DUSEN: Mr. Faxon.

MR. FAXON: I am not an expert in this. I don't believe this would do so. I think it leaves to the legislature some degree of latitude with regard to the interpretation of the word "juvenile". I don't think it would prevent waivers as such. Now, I am not an expert on it and I would invite those who are more familiar with this, to comment.

CHAIRMAN VAN DUSEN: It may be helpful, Mr. Mahinske, if you will pardon the Chair; there are 3 amendments pending dealing with this subject, of which the Chair believes you have notice of only 1, or perhaps 2, and will ask the secretary at this point to read, in addition to the Faxon amendment, the amendment offered by Judge Gadola, Mrs. Cushman and Mr. Hodges, and the amendment offered by Mr. Staiger, simply for the information of the delegates. Mr. Staiger has withheld his amendment.

SECRETARY CHASE: Mr. Gadola, Mrs. Cushman and Mr. Hodges have filed this amendment:

1. Amend page 1, line 14, after "dependents.", by inserting "Jurisdiction shall be original and shall not be waived for juveniles 17 and under, and such age may be increased as provided by law.".

CHAIRMAN VAN DUSEN: Now, Mr. Mahinske.

MR. MAHINSKE: Well, I would say that that amendment does exactly what this amendment does. We have our juveniles defined under the statute today as 17. There are areas where I feel that waivers have been justifiably made and should have been made and that there will probably be in the future other waivers made. For these reasons I would oppose this amendment and any proposed amendment that would exclude, constitutionally at least, waivers of, if you want to call them children, or juveniles between 15 and 17 because basically on the fact situations, these people are not juveniles. Primarily they are juveniles chronologically, not otherwise. Socially these are not juveniles that are being waived.

CHAIRMAN VAN DUSEN: Mr. Yeager.

MR. YEAGER: Mr. Chairman, I should like to direct a question to Mr. Danhof, if he would answer it.

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. YEAGER: We refer in the constitution in this particular article a number of times to the term "juvenile". Is the term "juvenile" defined any place in the constitution and should it be? I understand that the word "juvenile" is defined by statute. Does this place the legislature in the position of giving definition to the constitution?

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: It has not been defined in the 1908 constitution and I know of no definition within this constitution except perhaps what might come out of the declaration of rights, suffrage and elections as it relates to qualifications of voting. By statute, you are correct. Basically what constitutes a juvenile or what constitutes a delinquent and what constitutes a dependent has been left to the legislature within bounds, I would imagine. Now, they have determined that at age 17 a person charged with a crime will be tried the same as one 25. Below 17, they have set the fact that he will be tried in the probate court, except as has been pointed out, there may be waiver, which there has been to the age of 15. There is no definition of a juvenile nor is there a definition of a delinquent, for that matter, or the definition of a dependent, Mr. Yeager, to my knowledge.

MR. YEAGER: Isn't it true, though, that in the amendment on Friday, I believe, we struck the words "as provided by law?" Therefore, I raise the point that perhaps, technically speaking, we have no way really of defining what a juvenile is, since you have taken away the right of such definition by the legislature. Is this —

MR. DANHOF: No, because now it is exactly as it was in 1908, and they have passed a statute under the 1908 constitution making these classifications, Mr. Yeager. The exception, as otherwise provided by law, related to the jurisdictional aspect also, but if you are quiet in the constitution and if words need to be defined, they only get defined in 2 ways: either by the court when they come up for a case or by statute passed pursuant hereunder. In this particular case there have been statutes passed pursuant to this particular section.

CHAIRMAN VAN DUSEN: Mr. Higgs.

MR. HIGGS: Mr. Chairman and members of the committee, this amendment is an example of the problem you run into when you think in good conscience you are trying to solve a problem which is fairly technical. I would oppose this amendment.

First of all, you heard a discussion with regard to juveniles and as to what is intended by that, but most important of which is the waiver from juvenile court to circuit court. This is not done in all cases because of the fact that you want to treat the juvenile more harshly. It may be, as a matter of fact, that a juvenile is better tried in the circuit court than in the probate court. It may be, for instance, that there are psychiatric services and treatment available in circuit court that are not available in the probate court. You must recognize that in many parts of the state we have courts that have no services immediately available to them. Also, the juvenile does not have in a probate court trial the same constitutional rights that he has in the circuit court, and in matters of a very serious crime it may be to the best interests of the juvenile that he be tried in the adult criminal court.

I think this should best be left to the legislature. It has been handling this problem very nicely. There have been cases where there have been extensions of what is meant by juveniles from 17 to 18 in recent years.

CHAIRMAN VAN DUSEN: Mr. Garvin.

MR. GARVIN: Part of my question has been answered since the amendment was placed on the wall here. However, I wanted to state that since that other has been deleted, it seems to me that the statute is in a condition that it would work admirably under the present circumstances.

I might state here since there has been question of what the age of a juvenile is, that it is statutory for a juvenile. The juvenile doesn't necessarily mean a minor. A minor is one thing, under 21 years, and a juvenile is defined by the statute. Now, if we leave it as it is, since "except as otherwise provided by law" has been eliminated, I believe the courts can proceed to try juveniles as they have been tried. I was interested in Mr. Higgs' comment. I heard him mention Judge Baird quite a bit over the past few months, a probate judge, and it was interesting that Judge Baird tries his cases separately, as Mr. Higgs says, involving juveniles. I checked on attorneys that live in other jurisdictions, and find

out that is true too. I find out that Judge Conlin in Washtenaw county tries his separately, in a different room entirely. I submit that that is because the statute reads as it did in 1908 without the exception, "except as provided by law".

I am submitting these additional matters, although we have been over them, to reemphasize the importance of leaving the last sentence as it is, "They shall also have original jurisdiction in all cases of juvenile delinquents and dependents." Period. And I submit to you that after some experience with dependents and juveniles, that that would be the best thing for the child and the parents and for the state of Michigan. Thank you.

CHAIRMAN VAN DUSEN: Mr. Ford, do you still seek recognition?

MR. FORD: No.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Faxon, which the secretary will read.

SECRETARY CHASE: Mr. Faxon's amendment:

[The amendment was again read by the secretary. For text, see above, page 1432.]

CHAIRMAN VAN DUSEN: Those in favor of the amendment offered by Mr. Faxon will say aye. Those opposed will say no.

The amendment is not adopted. Are there further amendments to section a?

SECRETARY CHASE: Mr. Gadola, Mrs. Cushman and Mr. Hodges offer the following amendment:

1. Amend page 1, line 14, after "dependents.". by inserting "Jurisdiction shall be original and shall not be waived for juveniles 17 and under, and such age may be increased as provided by law.".

CHAIRMAN VAN DUSEN: Mr. Hodges.

MR. HODGES: Mr. Chairman, I made my initial remarks on the other amendment which would be the same as on this one. At this time I would yield to Judge Gadola for additional remarks.

CHAIRMAN VAN DUSEN: Judge Gadola.

MR. GADOLA: Mr. Chairman and members of the committee, I will try to be as brief as possible because after the explanation of the lineal rules this morning, I don't want to solicit the footwork that was described.

This amendment in no way is intended to reflect upon probate courts or probate procedure. We all recognize that there is a great difference in our courts because of population area and the setup of the courts. In our metropolitan areas we have extremely fine probate procedures with adult groups of probation officers, which they do not have in the sparsely settled communities. Something has been said here relative to the mental equation that the sparsely settled communities do not have. But they do have it. Any time that a prosecutor believes that any boy or anyone else is a mental case, he may file in the probate court to test that mental capacity, and that would be the fine thing to do.

The reason for advocating this amendment that I have had is this: after years and years of experience with waivers from probate court, I have always thought that there were too many waivers of these boys at 16. I say boys because in all of my experience I have had but 2 girls, and so it's all boys under this waiver provision. Now, the reason for this is this — you know, we'll first look into the reasons why the amendment shouldn't be given — they say, "Well, if some juvenile commits some extremely atrocious crime, he should be waived to circuit court." Well, perhaps that's true; but remember, that atrocious crime is the exception, oh, grossly the exception. And what happens to all the rest of these juveniles that have not committed atrocious crimes, such as stealing automobiles and other things? In a great many jurisdictions the prosecutor loves a conviction; and I am not criticizing the prosecutor for that. And the police officer loves a conviction; and I am not criticizing him for that.

But I do say this: we are attempting to protect not only youths, but the adult. That youth is going to become an adult sometime. One of the greatest examples that I ever had of that was when a man was summoned for jury duty and on the examination, as we always do, we ask the jurors if any of them have ever been arrested or convicted of a crime. They all said no. After the examination was over, this man came into my office and he said, "Judge, I want to be excused from jury service." And he said, "I'll tell you why. I'll honestly tell you why. I lied in there in the courtroom," he said, "for this reason. As a boy, I stole an automobile. I was convicted. I was punished." He said, "For years I've lived here in the city of Flint." He was a southerner — it was in the south. He said, "I've lived here in the city of Flint. I've raised my family. My children are going to school here. I am a business man here. I am a member of the church, carrying out the work," he said, "and am I going to be damned now after all these years? Because I know the question will be asked over and over again if I'm selected for jury service in any case." I said, "No." I said, "As a juvenile you should have been protected more than you were. Instead of being branded as a felon, something else should have been done with you. You are excused from jury service." That was one opportunity I had to correct something that shouldn't have needed correction.

I've had any number of these boys 16 brought before me that I didn't want before me at all, but I had nothing to do about it. They were waived from probate court. What could I do? I put them on probation. That didn't mean anything. Very few of them violated their probation but that stamp of a felon was upon them. And later on if they sought a position, they required a bond. What happened? Every bonding company and every man here that has ever had anything to do with bonding companies knows that the first question that is asked is, "Have you ever been convicted of a crime?" And they don't ask what the crime is or how old you were or anything about it. If you've been convicted of a crime, you're a poor risk and out you go.

That's why I want you to increase this age just 1 year, just 1 year. That's all that I ask by this amendment, that you increase it 1 year. They can waive now for that 1 year but at the end of that year they can be charged as an adult anyway. And what are we doing here? Are we paying any attention to what a juvenile is? We are making a juvenile an adult in criminal matters when he is 16. You can make him an adult in criminal matters at 16. But in every other activity of life he can't be an adult until he is 21 — with certain exceptions, of course. Nevertheless, we don't allow him to vote. We don't allow him to enter into contracts. We consider him as a child up until he is 21 really, but in criminal matters he is an adult at 16. And I say let's keep him in juvenile court. It can be handled. Later on, no matter what they say, all these atrocious crimes, he may be a repeater and all these things. If he is, he'll be back, and after 16 he'll be handled. If we had any place to keep him, if we had any place to help him as a juvenile, after we have had him in circuit court, it would be fine. But we have no place.

There was established a few years ago under the name of one of the delegates here, the Pugsley camp, where we sent some of the juveniles — they were not juveniles; they were youngsters — and they were sent to that camp for correction. But they were convicted of a felony. They are felons. Remember that. So let's think that over. Protect them.

I'm sorry I took as much time as I did. But let me appeal to you — everybody but Ann here because she says she's not going to have any grandchildren (laughter) — let's appeal to you as fathers, mothers, grandmothers and grandfathers — let's at least protect them for 1 more year.

CHAIRMAN VAN DUSEN: Mr. Hodges, the Chair believes you retained the floor. Do you wish to yield at this time?

MR. HODGES: No.

MR. KING: Mr. Chairman.

CHAIRMAN VAN DUSEN: Mr. King.

MR. KING: Mr. Chairman and fellow delegates, could I have that amendment read again? I am not sure I understood it.

CHAIRMAN VAN DUSEN: The secretary will read the amendment.

SECRETARY CHASE: The amendment is:

[The amendment was again read by the secretary. For text, see above, page 1434.]

MR. KING: Thank you. Despite what was said by the learned Judge Gadola, I am afraid that I would have to be opposed to this sort of an amendment. The idea of extending the age 1 year, which is what Judge Gadola mentioned, I think is very commendable. But we are also taking away the right to waive jurisdiction. I think this is a problem we are bound to get into when we try to draft details into this section. I frankly favor it the way it came out of committee.

Those of you who are lawyers, I commend to you for your reading in the February issue of the Michigan State Bar Journal, an article entitled, The Juvenile Court, Salvation or Damnation For Youthful Offenders. This is an excellent article. It points out that by and large we do have a good system. It's a young system but it's a good system, our juvenile system, but that there are many areas where it could be substantially improved. There has been criticism — very serious criticism. I could read you some. Speaking of the juvenile court, a fellow by the name of Olney said:

> It is fast developing into a complete system of fascism, as dangerous to our institutions as communism. Our youth are jailed, bailed, granted or denied rights on the mere order of probation officers, sheriffs and other executive officers. Laws and regulations are not made by legislation or settled law but by those in control . . . This theory of divorcing the home from the direct control of the parents as to discipline sets a dangerous precedent. It centers the function of fatherhood and motherhood in the state and in principle is socialistic . . . .

Now obviously, this is a very severe criticism of the juvenile system in this country and I don't think it's wise. I do think that there are cases, many cases, where 15, 16 and 17 year olders ought to be tried in a circuit court, and I view some of the remarks as being criticisms of the circuit court. These men have hearts too, the circuit judges, and they can be trusted. There may be zealous prosecutors and zealous police officers, but there are also zealous men on the circuit bench of the state of Michigan. And sometimes this works to the disadvantage of the youthful offenders. Let me quote again from this article:

> Many critics fear that the juvenile court will become a form of star chamber with little to restrain the judge but his own common sense. The Michigan code has been designed to meet this objection. However, there is no public trial, rules of evidence are not required to be rigidly followed, an oath may be given but is not required, and self incrimination and confrontation [of witnesses] are matters not specifically covered.
>
> There are certain procedural safeguards that could surely be practiced without presenting any conflict between the dual goals of rehabilitation and protection of the individual against arbitrary state action. The juvenile court would not suffer if better stenographic records were kept, the statutes were more precise in establishing jurisdictional standards, the referees were trained in the law, and more protection were given in the matter of detention before trial without an arrest warrant or hearing. Indeed, correction of these faults would do much to assuage the critic's attack upon those lax procedures which court officials deem essential to the system.

And I think we've seen in the last few days on the front pages of the newspapers just how this can happen, how a youngster can be kept and confined, as far as I can see, completely unlawfully.

So I say to you that this is not the sort of thing that we ought to be writing into the constitution. Now, if this matter came up across the street in the legislature and they wanted to give this a trial run, treat everyone 17 years and younger as a juvenile, with no waiver possible, then perhaps I'd be inclined to vote for it over there. But I think we are tying our hands far too much. There are better systems. Quite frankly, I think a family court is one of those better systems. We have already decided never to let that happen in Michigan without constitutional reform, assuming this constitution passes. This, I think, is unfortunate. But we are going one step further and I think we ought to think very carefully before we take this kind of a step.

CHAIRMAN VAN DUSEN: Mr. Ford, do you seek recognition at this time?

MR. FORD: A question to the proponents of the amendment. Do you mean by this that a person who has not yet reached his eighteenth birthday cannot be tried as an adult?

CHAIRMAN VAN DUSEN: Mr. Hodges? Mrs. Cushman? Judge Gadola?

MR. GADOLA: I will answer that. It's 17. This just moves it up from the present 16 to 17 and it doesn't go to 18. That is our intention, at least.

CHAIRMAN VAN DUSEN: Mr. Ford.

MR. FORD: Well, of course, no waiver is necessary over 17 because one moment after the child becomes 17 he is treated as an adult and the waiver is not in consideration. But the way I read this language, it says juveniles 17 and under, which means to me that a person who is past his seventeenth birthday is 17, or it may be under his seventeenth birthday, and I would assume that the cumulative effect of this language is that we are talking about children under 18. I think the present statutory breaking point is the seventeenth birthday. What I am asking is whether this is just 2 ways of construing the language or whether they meant the eighteenth birthday.

MR. VAN DUSEN: Judge Gadola.

MR. GADOLA: I believe it was intended for the seventeenth birthday.

If I may, while I'm on the floor, make one more little remark. Remember that everything relative to this at the present time is by statute and peculiarly — and I've questioned this all the way through this provision here — nowhere in the constitution are they trying to state what a juvenile is. They're leaving it to the statute, and unless something is done, the legislature can make it any age it wants to. And in addition to that, remember that the handling of a juvenile is all statutory. It's pretty near a whole little book by itself as to what's got to be done with him as soon as he is arrested, and you know, it's really more marked by its disregard than by its regard. In other words, any police officer arrests a juvenile, he is supposed to immediately go and find his guardian or parents; he isn't even supposed to take him to question at all. They don't do that. They don't do that. He is taken in, questioned, confesses, and everything else before he has a chance to talk to his parents or guardian. The statute doesn't say that. In addition to that, he's not supposed to be incarcerated at all with adults. They throw him in the county jail or at police headquarters just the same. There's the question. Are we protecting the juvenile? That's all I'm looking for is protection of that juvenile.

CHAIRMAN VAN DUSEN: Mr. Ford.

MR. FORD: I just sent to the library for the probate code. Apparently someone else has it out. I don't know if it's here on the floor or not. But it is my understanding of the probate code that the waivers of procedure were involving the ability of the child to defend himself, actually, and it doesn't relate to the time of the commission of the offense entirely but permits waiver after the child has reached 15 before he is 17, and this 15 is merely an age when they decide that before he is 15 he can't defend himself and after he is 15 he can, so they take a 14 year old and hold him until he is 15 and then file a petition. Is that right, Judge?

MR. GADOLA: No. The supreme court says you can't do that. They did do that, yes.

MR. FORD: It is my understanding this has been abused in some ways. The theory of this is very good. But I think Mr. King has raised a good point, and that is that some of us are a little bit leery about putting it at 17 because what our standard might be today might be different in the future. I don't know how long ago it was, but I know that Michigan has had at least 2 adjustments in the statutory rape age and

perhaps this is an age that may be adjusted either up or down in the future, depending on our experience. It seems to me that it would be a matter better left to the legislature if we make it clear that we are not going to commingle the juveniles, however they are defined, with the adults.

CHAIRMAN VAN DUSEN: Mr. Higgs.

MR. HIGGS: Mr. Chairman and members of the committee, this particular idea, as far as I know, was never brought to our committee by anyone. I didn't hear anyone argue or contend for such a provision as this. Consequently, it is a little difficult to have to sit and do some thinking right here on the floor as to what the hazards involved are. I think Delegate King has brought out a few, in particular, and there are others.

I'd like to call your attention first to the fact that the legislature has actually extended the age in certain cases from 17 to 18 so that the probate court and the circuit court have concurrent jurisdiction over certain classifications of juveniles in that age bracket. There is no reason to believe that the legislature is going to go backward. Second, I think we've got to bear in mind, as Delegate King has brought out, the ideas in the current state bar journal. A juvenile may be better off in the circuit court than he is in probate. He has certain constitutional rights guaranteed to him in the circuit court that he does not have in the probate court. As a parent, I may prefer my child, if he were 16, to be tried in the circuit court because of that fact. There are other children who may at that age be better off tried in the circuit court. And you must bear in mind the proceedings in a probate court are summary in many situations and that once the jurisdiction has attached, the court actually becomes a part of your family. Now, in the circuit court you have a right to a public trial. You have the right to be confronted by the witnesses. The child has the right to an attorney to help him, which he does not have in the probate court. He has the right to bail. Delegate King has already pointed out some of the deficiencies — problems, I should say — with regard to the stenographic records, and other proceedings. Now, I don't mean to be critical of the probate court. We heard Delegate Habermehl point out the lack of facilities the probate courts have in some parts of our state, where they are working all alone, a 1 man court. Thirty-three of our probate judges are nonlawyers.

Like I say, it was not brought to the attention of the committee. No one came before our committee and proposed anything like this, and I think it is hazardous if we attempt to rigidly incorporate into our constitution a provision which would actually invalidate a whole body of statute law that I presume there is some basis and foundation for in experience.

CHAIRMAN VAN DUSEN: Mr. Baginski.

MR. BAGINSKI: Mr. Chairman, delegates, let's break this down and let's see the picture clearly. If you take away from the probate court the waiver right, anyone picked up by the probate court charged with an atrocious crime, will have to be tried by the probate court or the juvenile section, and the probate judge there, if he finds the juvenile guilty, his choice then is to send the child to the boys vocational school or, if he finds that he is mentally ill, he has to send him to a mental hospital. In most of these cases, the children are mentally ill, mentally disturbed. Now what happens if a probate judge is forced to send this boy or girl who committed this atrocious crime to a mental hospital? That hospital in our area would be Northville. The child has to be placed in a dormitory with maybe 10 other boys and the 10 boys who are there are mentally ill and the reason they are mentally ill is they may be introverted, nonagressive — maybe just like vegetables — and you take this aggressive type of boy who is charged with murder or rape and you let him loose with these 10 other children who are mentally ill, and you are setting back the care, treatment and cure of these 10 mentally ill children a year or 2 because you permit this aggressive person to go into this dormitory.

Now, on Friday we mentioned the case of Johnny Smith. This morning I called Dr. Brown at Northville and he said he'd take Johnny Smith; but he said, "Baginski, we shouldn't take him in this hospital. He is going to do a terrific amount of damage. That boy should have been sent to the hospital for the criminal insane at Ionia." A probate judge is not permitted to commit to the hospital for the criminal insane at Ionia. That only can be done by the recorder's court or circuit court. Now, if you tie the hands of the courts by this amendment, remember the damage that you may be doing to the other children who are in mental hospitals and who can be cured but whose cure may be retarded because you put in one of these wild, aggressive type patients. I think this amendment should be defeated.

CHAIRMAN VAN DUSEN: Mr. Martin.

MR. MARTIN: Mr. Chairman, the purpose of those who offer this amendment is certainly for the best, but the fact of the matter is that this is a field where we are still feeling our way along; where we don't know whether 15 or 16 or 17 is the proper age to turn a boy over to the circuit court or not. We are still finding that out. It seems to me where you have a situation of this kind it is peculiarly a matter where you want flexibility and legislative discretion to act and adjust the situation according to what the best in psychiatry, the best in medicine, the best in criminal procedure shows ought to be done. For that reason, though it seems to me the purpose of the amendment is good, that it should be left to the discretion of the legislature and the amendment should not be adopted.

CHAIRMAN VAN DUSEN: Mr. Stevens.

MR. STEVENS: Mr. Chairman, members of the committee, Mr. Baginski has made a point on most of the things I wanted to talk about. Incarcerating these children, who are often hopeless, developed criminals, with other children, whether they are delinquents or of unsound mind is certainly an undesirable thing.

In addition, I would like to state that within my observation this happens only where it is an almost hopeless case where the juvenile has become a hardened criminal with many cases; he has been brought into the juvenile court to the youth bureau and other places many times before they go to this extent. Remember, he cannot be waived except by the juvenile judge or the probate judge acting in that capacity. Thank you.

CHAIRMAN VAN DUSEN: Mr. Hodges.

MR. HODGES: This will be the last time I rise on this, Mr. Chairman. I just point out 2 things: one, to Mr. Higgs' comment about the type of proceedings that are conducted and about his children, I would submit — I am sure the records would show — that there are very few instances, indeed, where parents or counsel for the boy have waived or requested a boy to be waived into a criminal case. It is on the motion of the prosecutor that this is done. The other thing is, I had a talk with my own probate judge, who was of different mind than I was on this proposition, and he pointed out the problem they have outstate and that they have waivers outstate because they do not have the facilities to keep these boys or detain them anywhere. There is no regional detention, most of these small counties don't have facilities and they can't keep them in the county jail. I would submit that this would be more reason to adopt this type of thing. It seems to me that if this was adopted, then the legislature would have to clearly see its duty and things like Marty Baginski just pointed out couldn't happen; that there are needs. We do need additional facilities which we don't have at the present time. There is no answer. There should be maximum detention or places for these children that have committed serious crimes and are maybe mentally incompetent or insane. I think this might help rather than hinder getting these regional detention homes and maximum security places where juveniles of this age can get help rather than waive them out because you don't have the facilities, and waive them out to be sent to Jackson or to Ionia.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Gadola, Mrs. Cushman and Mr. Hodges. Does anybody desire to have the amendment read again? If not, those in favor will say aye; those opposed will say no.

The amendment is not adopted. Are there further amendments to section a of Committee Proposal 94?

SECRETARY CHASE: Mr. Radka has offered the following amendment:

1. Amend page 1, line 8, after "districts,", by inserting "upon approval of the electors of the counties being combined,"; so that the language in the second sentence will read, "The legislature may combine 1 or more counties into probate districts upon approval of the electors of the counties being combined."

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Radka. Mr. Radka.

MR. RADKA: I see no reason to belabor the argument on this proposed amendment. We have heard the chairman of the committee, Mr. Danhof, explain the reason that they didn't allow the referendum provision. It was discussed in committee and rather than set forth that the districting must be approved by the voters or the electors of the counties or by another method such as a 2/3 vote of the board of supervisors for the purposes of flexibility, they left it up to the legislature. I offer this amendment, saying that I feel that if we are going to consolidate probate courts between counties, the people of the counties concerned should have the opportunity to determine the destiny of their own probate courts.

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Mr. Chairman, members of the committee, if we were in the deliberative body that reposes across the street, I would think that Mr. Radka's remarks would be well taken and I might concur therein. And if we were setting up a mandatory or a self executing provision within this article and within this section, again, this might be the appropriate way to have a check thereon. However, as the matter now stands it is left solely to the legislature. The legislature may combine 1 or more counties into probate districts. This is left solely to its discretion. We are not even sure that it will be done, or as he himself states, he is not sure that it should be by election, by a referendum, by some vote of the governing board of the county, if it be the board of supervisors, or some other means or tribunal which is the governing body of a particular county. We are here leaving solely to the legislature when this will take place, under what circumstances it will take place, and the method by which it is to be accomplished.

The legislature has the power to create or alter circuit lines and it does it solely by law. I don't know whether the legislature would invoke that particular manner in regard to probate districts or not. But I do think that what we have here, again, is what we have had in the past 2 amendments, and is something which is better left to those who have more time to tend to the particular problem of the particular county than we had. We spent 4½ months on the entire court system. I think perhaps that a legislative committee may spend as much as 2 or 3 years studying this one particular aspect thereof.

I think that this is an unnecessary detail, something which will tie the hands of the legislature if it wants to set up a method of combining the particular counties, if it even agrees that in certain areas this is or is not feasible. Certainly, I think that it can best be the judge. I am sure that it is probably amenable to the wishes of the people and will be to the areas involved, being elected to that body every 2 years. I therefore feel that to put this restriction in would be unnecessary and would tie the hands of the legislature on something that is merely permissive and upon which it should have probably the greatest freedom that it can have to study the matter and then if it decides it should do it, to set up the method. The committee of the whole has removed the remainder of that particular sentence and I would therefore urge that the amendment be defeated in regard to the writing in of a mandatory referendum provision.

CHAIRMAN VAN DUSEN: Mr. Radka.

MR. RADKA: I have nothing further to offer other than state there is a principle involved here and I ask for a division.

CHAIRMAN VAN DUSEN: Mr. Radka requests a division on the amendment. Is the demand supported? It is supported.

MR. DEHNKE: Mr. Chairman.

CHAIRMAN VAN DUSEN: Mr. Dehnke.

MR. DEHNKE: Mr. Chairman and delegates, I would be inclined to agree with the chairman of the committee if he had any way of guaranteeing that the legislature would recognize this principle. As has been suggested here previously, at this time we do not know how the legislatures are going to be set up in the future. This would apply in most counties that even now have a very minimal representation in the legislature and there is no guarantee under those circumstances that the legislature will be willing to recognize that the people of the counties involved have a sufficient interest to entitle them to be consulted on it. I think the only safe way to handle this matter is to put the restriction in the constitution.

CHAIRMAN VAN DUSEN: Mr. Sharpe.

MR. SHARPE: Mr. Chairman, I'd like to ask the chairman of the committee, Mr. Danhof, a question if he would care to answer it.

CHAIRMAN VAN DUSEN: You may proceed, Mr. Sharpe.

MR. SHARPE: Mr. Danhof, do you say that you would object to the people having the privilege of recommending this merger of courts if they so desired?

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: I don't know the desires of the people but offhand, if that is the way that it would be set up, I would have no objection, Mr. Sharpe.

MR. SHARPE: In this event, why would you object to this amendment?

MR. DANHOF: I wouldn't object if you set it up for a vote of the board of supervisors either. I think that they would be amenable to the people and I think that perhaps there is a matter of cost and there is a matter of setting up the particular procedure. If the legislature would decide that it would be as well accomplished upon a majority or upon a 2/3 vote of the board of supervisors of the county involved, I would say that that would be a reasonable process. I just think that once you put this in, you are freezing in something which is not in here except if we were making this mandatory that all counties with less than 25,000 would be combined, or combinations thereof until you got to 25,000 or 20,000 shall be combined in the probate districts, then I would say that we should spell out the means by which there should be a check on this by the board of supervisors or by an election.

This is strictly a permissive matter and I think we are writing in unnecessary detail, the same as we would have written it into the home rule provision or anything else. We left that entirely and basically to the legislature. I think this is something we can just as well leave with and allow to its particular discretion what it may feel that is necessary. In counties of a certain size there should be a referendum and in counties of another size it should be handled by the boards of supervisors. I don't know. I don't have all of the details. I wouldn't have any objection to either one.

MR. SHARPE: You would have no objection to either one?

MR. DANHOF: Across the street, but not here.

MR. SHARPE: I see. Who do you think would be more capable of deciding whether or not their county should merge with another county than the people themselves?

MR. DANHOF: Again, now you are getting into a whole question of merger and annexation.

MR. SHARPE: Let's take the word "merge" out and put the word "combined" in then.

MR. DANHOF: Are you speaking of the people? If you have a special election, I would rather leave it to the boards of supervisors, Mr. Sharpe. With the return that you usually get in a special election, where you get 12, 14, 15, 20 per cent of the electorate, I would rather trust the governing body.

MR. SHARPE: Would you support an amendment, then, stating so?

MR. DANHOF: No, I will not because I think it is legislative detail.

CHAIRMAN VAN DUSEN: Mr. Garry Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee, I'd like to address a question to Mr. Radka, if I may. In your language, Mr. Radka, you say "upon approval of the electors of the counties being combined." In this instance do you mean upon approval of the electors of each of the counties being combined?

CHAIRMAN VAN DUSEN: Mr. Radka.

MR. RADKA: This is correct.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Radka. Mr. Ford.

MR. FORD: Mr. Chairman, I think that one of the problems raised is the way the sentence in the committee proposal reads. It has been read, as I understand by conversation off the floor with some of the members, that the legislature itself would by statute say that county A and county B shall thereafter be combined, while I think most of us thought that what we were doing was saying that the legislature might do this but that probably it would provide a method whereby if 2 counties or 3 desire to do it, could do it. Whether it was by the electors or by the board of supervisors I don't think we got into. But perhaps without tying the legislature, we could do it by making it clear at the style and drafting level that what we intend is that the legislature will provide a procedure for this but not necessarily provide a self executing statute that says hereafter county A and county B are combined.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Radka. Does any delegate desire to have it read further? If not, a division having been ordered, those who are in favor of the amendment offered by Mr. Radka will vote aye. Those who are opposed will vote no. The question, Mr. Walker, is on the amendment offered by Mr. Radka. Has everyone voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Radka, the yeas are 50; the nays are 65.

CHAIRMAN VAN DUSEN: The amendment is not adopted. Are there further amendments to section a of Committee Proposal 94?

SECRETARY CHASE: Mr. Higgs offers the following amendment:

1. Amend page 1, by striking out all of lines 6 through 14. (laughter)

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Higgs, which would strike what remains in section a. Mr. Higgs.

MR. HIGGS: Mr. Chairman, of course, I am not speaking for the committee. This particular amendment is to point out again the problems of legislative detail that we are writing into the constitution, since we are 1 of only 14 states that makes any provision whatsoever for the probate court. And this is where we get into trouble with all this legislative detail. Inasmuch as this particular section was designed to grant the maximum degree of flexibility possible to the legislature to handle the problem, and inasmuch as it is not yet in final form, I will withdraw the amendment at this time and see what it looks like when we get done with it.

CHAIRMAN VAN DUSEN: Mr. Higgs withdraws his amendment. Are there further amendments to section a of Committee Proposal 94?

SECRETARY CHASE: That's all the amendments presently on file on the desk, Mr. Chairman.

CHAIRMAN VAN DUSEN: Mr. Norris.

MR. NORRIS: Mr. Chairman, I just wanted to ask the committee chairman a question. I had contemplated submitting an amendment which would have created a right to counsel on behalf of a juvenile or his parents. I have not submitted that. I just wondered what the thinking of the committee was with regard to that proposition and whether or not the proposition was at all discussed. I understand that most of the witnesses that have appeared before the committee were judges and I don't know whether or not this particular matter was given the kind of thought that I might have given it had I been on that committee.

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: If I understand your question, it was whether we had discussed the idea of guaranteeing to juveniles the right to have counsel. Is that right? What do you mean, for the parents to have counsel or the right to have the parents there?

CHAIRMAN VAN DUSEN: Mr. Norris.

MR. NORRIS: Mr. Chairman, the present statute reads, ". . . and in the event such child or his or her parents desire counsel and are unable to procure same, the court in its discretion may appoint counsel to represent the child." Now, first of all, there is the question of the desire being manifested by the juvenile or his parents that has to take place; and second, "the court in its discretion may." Now, that may suit most circumstances, but there is a serious question because, after all, if you are creating — as we do in this section — a constitutional right on the part of the juvenile to be tried in a juvenile court, you are also saying he has a constitutional right not to have constitutional rights because that's the way the courts have construed it. Now, should he have at least the right to counsel?

MR. DANHOF: The answer to the first part of your question — I'm not sure this was before my committee. Rather, it was before the committee on which you served as the second vice chairman, where you provided for the defendant in all criminal cases to have the right to have counsel. Perhaps the primary jurisdiction would lie there insofar as the committee assignments were concerned because it is a civil right, I would think, rather than a judicial right. Now, the matter had some discussion at the time that Judge Coleman came before our committee, wherein she pointed out — not in as much detail, but alluded to and touched on — the matters that Mr. King referred to regarding the proceedings in the probate court. And in response to some questions, it happened to be her personal procedure that in numerous juvenile proceedings, and more as time went on, she was appointing counsel since she felt that it was needed in a number of cases. She went on to state that this was one of the reasons why, in her opinion, it was necessary that the judge be a lawyer. She tied it more in with that line to make sure that the juvenile's constitutional rights and those civil rights that are perhaps guaranteed to all of us by the federal constitution were protected because even a juvenile would have some rights thereunder and it was tied more to that.

Now, the specific question — we did not write it in here because, to be very frank with you Mr. Norris, I don't think it has to do with a judicial selection or a court administrative problem, which was our basic problem. Now personally, I might agree with you that if we get back to the civil rights section on second reading or something, that this would be an appropriate thing to insert in that section relating to the right of the defendant to have counsel, to likewise include juveniles and their parents, or some appropriate language. But we did have some discussion — not detailed or a great deal of discussion, since we were more concerned with the type of court except for this one general jurisdictional grant to the circuit court — but we had some discussion on it along that line. From her comments and the comments of the committee, it was our opinion that in more juvenile cases there should probably be attorneys to protect the civil rights of the juveniles and of their parents before these particular proceedings. We did not discuss the possibility in great detail of writing it into this particular article.

CHAIRMAN VAN DUSEN: Are there further amendments to section a of Committee Proposal 94?

SECRETARY CHASE: Mrs. Cushman, Miss McGowan, Messrs. Follo and Faxon offer the following amendment:

1. Amend page 1, line 8, after "districts" by changing the period to a comma and reinserting "or combine the office of probate judge with any judicial office inferior thereto.".

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mrs. Cushman, Miss McGowan, Messrs. Follo and Faxon. Mrs. Cushman.

MRS. CUSHMAN: Our purpose in offering this amendment was simply to have the convention rule on this very definite idea of allowing the legislature, under whatever rule it would like to set up, and without the restrictions previously in this, to combine the office of probate judge with a judicial office inferior thereto. That is the purpose that we have. As you can see, it is a reinstatement of certain of the language, but without certain restrictions, allowing the utmost flexibility.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mrs. Cushman and others. Mr. Ford.

MR. FORD: Mr. Chairman and members of the committee, I don't believe that this amendment would change much of

anything except to make it possible to change the name of the probate court because presently the legislature has no restriction on it against adding any powers it wants to the probate court. It can give it criminal jurisdiction; it can give it civil jurisdiction that it doesn't now have; it can give it almost any jurisdiction that it might choose. I know of no constitutional restrictions except that the circuit court has the original jurisdiction in common law matters not otherwise covered and so long as it wasn't in contravention of that, it could do this now. And all this section would do would be perhaps to make it possible to combine the probate court and thereby abolish it by creating a county court. If Mr. Higgs had put this in, I'd know that was what he was after. But I am surprised when I see Mrs. Cushman, because I don't think she is an advocate of the county court. That is exactly what this is leading up to and that is what this language would have been for when it was presented to our committee and rejected.

For that reason, I don't disagree with the principle of flexibility, but I think it is already there and I disagree with the amendment because it would permit something that I should hope they don't want to have happen.

CHAIRMAN VAN DUSEN: Mr. Radka.

MR. RADKA: Mr. Chairman, I rise to a point of order. I question whether this proposed amendment is much different than the language that previously was included in section a and has been deleted by amendment.

CHAIRMAN VAN DUSEN: Mr. Radka, the Chair will rule that the language previously stricken was, "or combine the office of probate judge with any judicial office inferior thereto in any county with less than 25,000 population with supplemental salary as provided by law." The language inserted by this amendment has a somewhat different purpose, as its proponent pointed out, and the Chair will rule that it is in order.

The question is on the amendment offered by Mrs. Cushman and others. Does any delegate desire to have the amendment read again? If not, those in favor will say aye; those opposed will say no.

The amendment is not adopted. Are there further amendments to section a of Committee Proposal 94? If not, the section will pass.

Section a, as amended, is passed. Mr. Sharpe.

MR. SHARPE: Mr. Chairman, this is a last minute thought, you see, but I thought that possibly on line 7, after the word "combine" we should strike the figure "1" and insert the figure "2". I believe that the legislature might find it difficult to combine 1 county. (laughter)

CHAIRMAN VAN DUSEN: Mr. Danhof, do you have any comment?

MR. DANHOF: Mr. Sharpe, Mr. Hutchinson made the remark, "Good point." He has made a note. He will take care of it when they next meet with Mr. Cudlip.

CHAIRMAN VAN DUSEN: The secretary will read section b. Mr. Danhof.

MR. DANHOF: Mr. Chairman, I would move at this time the committee do now rise.

CHAIRMAN VAN DUSEN: Mr. Danhof moves the committee rise. Those in favor will say aye; those opposed will say no.

The motion prevails. The committee will arise.

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

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

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

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 94,** A proposal pertaining to the probate court; has considered several amendments thereto and has come to no final resolution thereon. That completes the report of the committee of the whole.

PRESIDENT NISBET: Any announcements?

SECRETARY CHASE: The committee on emerging problems will meet Tuesday, tomorrow, in committee room I on the third floor at 7:30 p.m. Frank G. Millard, chairman.

PRESIDENT NISBET: The Chair recognizes Mr. McLogan.

MR. McLOGAN: Mr. President, I move the convention take a recess until 8:00 o'clock p.m.

PRESIDENT NISBET: The question is on the motion of Mr. McLogan. Those in favor will say aye; opposed, no.

The motion prevails. We are recessed until 8:00 o'clock.

[Whereupon, at 5:30 o'clock p.m., the convention recessed; and, at 8:00 o'clock p.m., reconvened.]

The convention will please come to order.

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

PRESIDENT NISBET: Are there any announcements?

SECRETARY CHASE: None at this time.

PRESIDENT NISBET: Mr. Van Dusen.

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

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. All those in favor will say aye; opposed, no.

The motion prevails. Mr. Van Dusen.

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

CHAIRMAN VAN DUSEN: The committee will be in order and the secretary will read section b of **Committee Proposal 94** dealing with the organization and jurisdiction of the probate court.

SECRETARY CHASE: Section b.

[Section b was read by the secretary. For text, see above, page 1380.]

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Mr. Chairman, members of the committee, having finally gotten through section a, we turn to section b which has to do with the judiciary of the probate court. For an explanation of the committee report, I should like to call on the delegate from Highland Park, Miss Donnelly.

CHAIRMAN VAN DUSEN: Miss Donnelly.

MISS DONNELLY: Pursuant to our president's words and to our chairman's words and to Mr. Van Dusen's words, this is short. We have made 1 change. We have increased the probate judge's term 2 years. Otherwise it is about what we have in the constitution, only reworded; otherwise, it is consistent with the first paragraph and the 1 change is from 4 to 6 years.

CHAIRMAN VAN DUSEN: Are there any amendments to section b?

SECRETARY CHASE: Mr. Higgs offers the following amendment:

1. Amend page 1 by striking out all of lines 16 through 20, being all of section b.

CHAIRMAN VAN DUSEN: Mr. Higgs.

MR. HIGGS: Mr. Chairman and members of the committee, the purpose of this amendment is the same as the amendment which I am reserving with regard to section a. I will withdraw it at this time and possibly introduce it at a later time.

CHAIRMAN VAN DUSEN: Mr. Higgs' amendment is withdrawn. Are there any further amendments to section b?

SECRETARY CHASE: None on file, Mr. Chairman.

CHAIRMAN VAN DUSEN: If not, it will pass.

Section b is passed. Are there any amendments to the body of the proposal? Mr. Radka.

MR. RADKA: Mr. Chairman, may I direct a question to Miss Donnelly through the Chair, please?

CHAIRMAN VAN DUSEN: Proceed, Mr. Radka.

MR. RADKA: Miss Donnelly, you stated that section b is consistent with section a. I would ask, is section b consistent with section a as amended?

MISS DONNELLY: In my opinion, yes.

tinction between a privilege and a right. Therefore, I offer the amendment.

CHAIRMAN VAN DUSEN: Mr. Ostrow, do you desire recognition on the Martin amendment?

MR. OSTROW: Yes, I would like to ask Mr. Martin a question.

CHAIRMAN VAN DUSEN: You may proceed, Mr. Ostrow.

MR. OSTROW: Mr. Chairman and Mr. Martin, would this amendment mean that if a student were turned down on his application for admission to one of the colleges, that he could apply to the courts for redress?

MR. MARTIN: Well, I think if the word "privileges" is in there, he could, because it is certainly a privilege to submit an application, it is a privilege to walk down the street, it is a privilege to do almost anything you can think of that we do without asking somebody's permission.

MR. OSTROW: I just wanted that clarified.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Martin to the amendment offered by Mr. Brown. Mr. Brown.

MR. G. E. BROWN: Mr. Chairman, members of the committee, to this colloquy that has gone on, I merely say that I think that the question raised by Mr. Ostrow does not constitute a judicial or quasi judicial function.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Martin to the amendment offered by Mr. Brown. Those in favor will say aye; those opposed will say no.

The amendment is not adopted. The question now is on the amendment offered by Mr. Brown, on which a division has been ordered. Those in favor of the amendment 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 adoption of the amendment offered by Messrs. G. E. Brown, King and Brake, the yeas are 82; the nays are 37.

CHAIRMAN VAN DUSEN: The amendment is adopted. Are there further amendments to section a of Committee Proposal 95?

MR. DANHOF: Mr. Chairman.

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: In view of the hour, I move the committee do now rise.

CHAIRMAN VAN DUSEN: Mr. Danhof moves that the committee do now rise. Those in favor of the motion will say aye; those opposed will say no.

The motion prevails. The committee will rise.

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

PRESIDENT NISBET: The Chair will recognize Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, the committee of the whole has had under consideration several 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 94,** A proposal pertaining to the probate court; and reports this proposal back to the convention with 3 amendments, recommending the amendments be agreed to and the committee proposal as thus amended do pass.

Following are the amendments recommended by the committee of the whole to Committee Proposal 94:

1. Amend page 1, line 8, after "districts" by striking out the comma and "or combine the office of probate judge with any judicial office inferior thereto in any county with less than 25,000 population with supplemental salary as provided by law,".

2. Amend page 1, line 10, by striking out "and shall do so on recommendation and report of the supreme court".

3. Amend page 1, line 14, after "dependents" by striking out the comma and "except as otherwise provided by law".

PRESIDENT NISBET: The question is on agreeing to the amendments recommended by the committee of the whole.

MR. DANHOF: Mr. President.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, in view of the complexity of these 3 amendments, I would ask particularly that they be divided; that they be considered separately. And further, I will ask for a roll call on amendment 1 as read by the secretary and amendment 3 as read by the secretary. I anticipate that perhaps there will be additional amendments offered and I would prefer and recommend that the convention not concur in amendment 1 and amendment 3. Perhaps this will provoke considerable discussion; I am sure it will and, therefore, if it be the pleasure of the convention, I will move at this time that the decision on concurring in the recommendation of the committee of the whole be held over until the session of tomorrow.

PRESIDENT NISBET: Is the demand for a roll call vote on amendments 1 and 3 supported? It is supported. Now the question is on the motion of Mr. Danhof to postpone until tomorrow action on the report of the committee of the whole on Committee Proposal 94. Those in favor will say aye; opposed, no.

The motion prevails.

SECRETARY CHASE: Mr. President, the committee of the whole has also had under consideration **Committee Proposal 95,** A proposal pertaining to appeals from administrative tribunals; has adopted several amendments thereto, and has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Announcements.

SECRETARY CHASE: I have the following announcements: the committee on rules and resolutions will meet tomorrow, March 6, during the noon recess in room I; and the committee on emerging problems will meet Tuesday, tomorrow, in committee room I on the third floor at 7:30 p.m. Frank G. Millard, chairman.

The apples this evening were grown in the Turner orchards of Saginaw but are furnished by Mr. Burton Richards of Berrien county, who is fresh out of apples. (laughter and applause)

PRESIDENT NISBET: The Chair recognizes Dr. Anspach.

MR. ANSPACH: Mr. President and fellow delegates, the committee on the judiciary has been under fire for a day or so and I think that they can take care of themselves — or at least I hope they will get a bit of inspiration and courage from this story. This man received a letter from the collector of internal revenue. The letter said, "If you don't pay the back installments of your income tax, we are going to cause you a lot of trouble." He wrote back and said, "I'm not going to pay the back installments of the income tax because in the spring we had a flood and it washed out half of my crops. Then we had a dry spell and I lost the rest of my crops. I was forced to sell my cattle at a loss. The termites moved into my house and it's about to fall down. Lightning struck the barn and it burned down. My son was convicted of stealing and sent to the penitentiary. My wife got discouraged and ran away with the milkman. I'm not going to pay the back installments of the income tax because I'm just interested to see what kind of trouble you can cause me." (laughter)

PRESIDENT NISBET: Incidentally I think the convention will be glad to know that today happens to be the birthday of 2 of our delegates, D. Hale Brake and Dr. Anspach. (applause)

MR. ANSPACH: May I acknowledge for Mr. Brake and myself your very nice tribute? And yet I want to say this: a man went home one time after receiving such an accolade and he said to his wife, "Do you know how many important men there are in the world?" and she said, "There's one less than you think." (laughter)

PRESIDENT NISBET: Dr. DeVries.

MR. DeVIES: Mr. President, the committee on administration will meet Wednesday at 1:00 p.m. to consider Resolution 78 introduced by Messrs. Binkowski, et al, on the post adjournment affairs; Wednesday at 1:00 p.m.

PRESIDENT NISBET: Mr. Chase.

SECRETARY CHASE: I have the following requests for leave from the convention: Mr. McAllister requests leave from tomorrow's session; Mr. Davis wishes to be excused from tomorrow morning's session; Mr. Anspach requests to be excused from the session of Wednesday, March 7, to speak to a community luncheon on the work of the convention; Mr. Follo requests leave to be absent from the session of Friday, March 9; and Mr. Perras requests leave for the sessions of Thursday and Friday, March 8 and 9 to attend the funeral of a very close friend and business associate.

PRESIDENT NISBET: Without objection, the leaves are granted.

The Chair recognizes Mr. Norris.

MR. NORRIS: 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.

The motion prevails. We are adjourned until 9:30 tomorrow morning.

[Whereupon, at 10:20 o'clock p.m., the convention adjourned until 9:30 o'clock a.m., Tuesday, March 6, 1962.]

NINETY-THIRD DAY

Tuesday, March 6, 1962, 9:30 o'clock a.m.

PROCEEDINGS

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

We are very happy to have with us this morning Mr. Gust's pastor, the Reverend Bertram Atwood of the Grosse Pointe Memorial Church, who will give our **invocation.**

REVEREND ATWOOD: Our Father, as we begin this day of deliberation, we would remember that this is a new day, fresh from Thy hands; that it is unlike any other day Thou has ever made; that it has cost Thee long ages to bring it forth. Teach us now that we cannot use this day well without Thy guidance and direction. Help us to put the welfare of our state and her people above party and selfish consideration. Thou knowest our motives, our hopes, our fears. Thou art concerned about what is said and done here. Grant us when night falls to have a clear conscience before Thee, and be able to look every man in the eye without wavering. Bless us according to our deepest needs, and use us for Thy glory. Through Jesus Christ, our Lord. Amen.

PRESIDENT NISBET: The **roll call** will be taken by the secretary. Those present please vote aye.

SECRETARY CHASE: Have you all voted? The machine is now locked, and the attendance will be recorded.

Mr. President, a quorum of the convention is present.

Absent with leave: Messrs. Davis, Donald Doty, Downs, Miss Hart, Messrs. McAllister, Murphy, Pellow and Tweedie.

Absent without leave: None.

[During the proceedings, Mr. Davis entered the chamber and took his seat.]

PRESIDENT NISBET: Reports of standing committees.

SECRETARY CHASE: None.

PRESIDENT NISBET: Reports of select committees.

SECRETARY CHASE: None.

PRESIDENT NISBET: Communications from state officers.

SECRETARY CHASE: None.

PRESIDENT NISBET: Motions and resolutions.

SECRETARY CHASE: There are no resolutions on file.

PRESIDENT NISBET: **Unfinished business.**

SECRETARY CHASE: Under the item of unfinished business the president lays before the convention the report of the committee of the whole on **Committee Proposal 94,** A proposal pertaining to the probate court; which was reported on yesterday with 3 amendments, which amendments by request of Mr. Danhof are to be considered separately; and on amendments 1 and 3 the yeas and nays have been ordered. The first amendment is as follows:

1. Amend page 1, line 8, after "districts" by striking out the comma and "or combine the office of probate judge with any judicial office inferior thereto in any county with less than 25,000 population with supplemental salary as provided by law,".

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, I think if you will check your journal at the time that this particular amendment was considered and voted upon you will find that the vote thereon was carried by approximately 4 votes, with less than 100 delegates voting. As a consequence, I feel that this particular matter should be given as serious consideration as it had in the committee.

The committee is of the opinion that this is a valid provision, and that it will allow the legislature — and it will be just the legislature — to give flexibility, if it so desires. There is nothing self executing about this particular provision. There is nothing mandatory about it. And it will be solely within the province of the legislature to do what it deems and feels should be done under the particular circumstances. The committee was of the opinion that such a provision should be included, and I think now that if we leave it solely to the legislature it would be advantageous, and it would be a step forward which would not endanger or make this particular matter self executing, but would leave it with the legislature in their discretion and after their study. Consequently, in view of the other amendment, I would seriously urge and recommend that the amendment be not concurred in; that a no vote be cast with regard to this particular provision and amendment; and that it be adopted as written by the committee, taking into consideration the further amendment of the sentence.

PRESIDENT NISBET: The question is on the adoption of the amendment. The yeas and nays have been ordered. **Mr.** Madar.

MR. MADAR: Mr. President, would you have that particular amendment read over again?

PRESIDENT NISBET: Mr. Chase, would you read the amendment.

SECRETARY CHASE: This is amendment 1:

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

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, I would like to rise to support the committee on this particular amendment. I in-

tended to speak last Friday but my absence made that impossible, so I would like to make just a few remarks in support of the committee this morning. I'm afraid that I have to disagree completely with my friend and neighbor, Delegate Radka. Our districts overlap. His county is also in my district that I represent here.

Even before the convention this was a subject that I was particularly interested in, and I think the delegates to this convention should be. We spend a great deal of time worrying about a method of selection of supreme court justices without stopping to think that for every individual that appears before the supreme court probably a thousand people are concerned and interested in the matters before these smaller courts. This subject, then, to the people of the state, is probably considerably more important than the matter of the selection of supreme court judges. It seems to me here that the committee has attempted to do a most commendable thing. The counties of Michigan, of course, are vastly different, both in their needs and in their means of financing what is important to the people of each county. And when we go from a population of about 2,600,000 in Wayne down to a population of 2400 in the smallest county, we must recognize that the legislature must have some flexibility if it's going to provide a system that will benefit all of the counties in Michigan.

I'm particularly concerned in this matter of children and the treatment that children will get statewide. I don't believe that children and their needs should differ from county to county. I don't believe that the place of residence of a child should determine the kind of care that that child can get. In the outcounty area the big problem is trying to finance methods of taking care of our juveniles when they are in trouble, when they are emotionally disturbed, or when they do get into conflicts with the law. In the big counties the problem does not exist, actually. There is plenty of financing — plenty of money to set up a very fine system, as Wayne county now has.

In the small counties we simply don't have the kind of financing that will enable us to provide any sort of counseling service for these juveniles. Now, nothing could be more important. Mishandling of a juvenile by our courts can result in a ruined life. If the child is not treated properly at 15 or 16, or even at ages below that, it affects the child for the remainder of his life.

We have to have some sort of flexibility in this provision. We cannot now lock out the possibility of doing something in the way of furnishing these services to the children of the state. And the big problem is not the name of the court, not the particular setup or the preservation of a status quo; the problem is the financing of such services. Very obviously a county of 2400 people is simply not going to be able to afford a child guidance clinic or psychiatric counseling for the children when they get into trouble. We must, then, have some flexibility. The committee of the whole has provided one means, the combining of these small counties into a probate district. This I think is fine for some parts of the state. In some parts of the state it will fit very well. We can then set up our child guidance clinics on a multicounty basis, probably even set up our handling of juveniles on a multicounty basis, and provide this kind of counseling to the children of that area. It isn't the whole answer, however. There are a number of Michigan counties that will not fit readily into a combination with their neighboring counties.

In those areas I submit that there is a better way, a way of integrating our courts horizontally; that is, combine a number of these courts that we might have in these small counties into 1 court of general jurisdiction. That's what the committee provision tried to do. I submit there is nothing wrong with that. I think that probably for a long time we have gotten used to the idea of designating a court for a specific or particular purpose. We are trying then to extend this idea of specialization into our inferior courts.

On the circuit court level we are doing exactly the opposite. The circuit courts now, under the new judicature act, will not even have a chancery and law division. We are assuming that a circuit court has general jurisdiction, and I submit that there's a reason why these inferior courts can't have a similar type of setup, with an advantage to everyone. This would, then, in almost every county in Michigan, provide a means of financing an adequate budget that would permit the county to furnish at least a minimum of counseling service, of psychiatric care, to the children that might become involved in troubles in that county.

The one way in which it will be done will be by the combining of offices and combining of budgets of existing courts. Every county has a budget, and actually a pretty adequate one, for the probate court. Many counties have budgets for other inferior courts, municipal courts, J.P. courts — and of course on the matters where J.P.s now collect fees, we are proposing later on to set up that court on a budget and provide a salary for the judge. If we can, then, combine these budgets we can furnish an adequate budget for one court.

This would do another thing. We've been talking about magic numbers. There's one magic number in the law now, the age of 17. In most of the counties in Michigan the youngster under 16 of course will appear in the probate court. Most counties have a county juvenile agent, a man whose job it will be to oversee these youngsters when they do get into trouble and keep them out of probationary status, and to regulate their conduct. The moment, however, a child passes the age of 17, such a service is no longer available to that child. In most counties in Michigan, in the municipal and justice courts there are only 2 alternatives when a youngster gets into trouble; either he goes to jail, or a fine is assessed against him. There are no probation officers for the youngsters of that age. If now we can again set up a system whereby this same county juvenile agent can oversee the activities and can provide for probationary service over these youngsters, we may keep them out of the circuit courts and keep them away from this handicap of having a felony on their record for the rest of their lives.

Many, many times people who have been in my position or are in my position now, as a former prosecutor, have found cases where there was nothing else we could do with the youngsters but to take them up to circuit court, and finally wound up sending them to Jackson prison for offenses which, had they been a few months younger, could have been handled on the probate court level. And it's no fun sending a 17 year old to Jackson prison; I can testify to that. In other words, the combining of these courts would make available all of the services we have now in the county to youngsters of all ages, right up to the age of 21.

We have another problem up there. If we can get a competent person to man these probate courts, generally it is on a part time basis. A lawyer will take the job if he can spend 2 days or 3 days a week at it and continue his practice in addition. It has to be done that way, because most of these counties dealing with the probate court alone cannot provide an adequate salary for that judge. This of course has many evils. The bar association is most unhappy about a judge competing with them, we'll say, in the other courts. And we have a situation where the probate judge one day might be defending a criminal case in circuit court, and might the next day be handling a matter on the juvenile level.

There is no conflict between the probate court and these other inferior courts, and no reason why they cannot be combined. I do not propose that this be a mandatory provision in any sense. I simply say that the legislature should be empowered, where that solution might be the best solution, to permit these counties to integrate these courts, to set them up on a single court basis. And I think it would be presumptuous of us here to say that the legislature shouldn't have such power.

Now, the only opponents to this provision are those delegates interested only in maintaining the status quo; interested only in protecting the incumbents in office. It seems to me that is hardly reason enough to oppose a provision that could be of great benefit to these smaller counties.

In every other aspect of government, in the home rule provision and in the metropolitan district provision, we recognize the fact that counties differ; that counties should then have an

opportunity to work out their own problems. Here, for some reason or another, 51 delegates last Friday decided that the counties in this field should have no opportunity to do that at all; that we should freeze into the constitution a provision that would prevent them from working out their own problems. Certainly here is an opportunity for those that are interested in what happens to our juveniles to permit these counties to make some adequate provision to take care of these emotionally disturbed kids that we have all through the state. And here is an opportunity to make sure that the geographical distribution of those children shouldn't affect their rights to justice and to proper care.

[Vice President Hutchinson assumed the Chair.]

VICE PRESIDENT HUTCHINSON: The question is upon concurring in the amendment. The Chair next recognizes Mr. Perras.

MR. PERRAS: A point of information I would like to direct to the secretary. There seems to be some confusion this morning, Mr. Secretary, as to what a yes and no vote would do in this case. Would you please clarify that?

VICE PRESIDENT HUTCHINSON: The secretary will clarify the situation.

SECRETARY CHASE: Amendment 1 was adopted by and therefore recommended by the committee of the whole, and the question will be on concurring in the amendment, which will strike from section a the language indicated. If you do not wish to concur in the recommendation of the committee of the whole, you should vote no.

MR. DEHNKE: Mr. President.

VICE PRESIDENT HUTCHINSON: Judge Dehnke.

MR. DEHNKE: I think a part of Mr. Habermehl's remarks were addressed to the first portion of this section, which was not stricken out on our previous consideration of the matter. There was also taken out of the committee proposal the language which immediately follows the second section, "and shall do so on recommendation and report of the supreme court," and in my voting on this present amendment I shall assume that that language will remain out.

I'd like to ask the chairman of the committee, however, this question. Is there any doubt in your mind, Mr. Danhof, that if the legislature chooses to exercise the power conveyed by this section, it would have the right to attach a referendum clause to the statute?

VICE PRESIDENT HUTCHINSON: The gentleman yields to Mr. Danhof for a question.

MR. DANHOF: They would have that absolute power, in my mind, if they should so desire, Judge.

MR. DEHNKE: Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: Mr. President, I've been listening to a good bit of this discussion on the probate courts and the taking care of our juveniles in the state, and it would seem that those speakers who are asking you to put through this proposal which would supplement the salaries of the judges of the smaller counties are suggesting that the rest of us here are opposed to helping any child that gets into trouble; that we are heartless; that we just have no souls. Actually, I think that we want to help them just as much as we possibly can. We go out of our way to do this. We would be willing to spend money to do this.

However, this particular proposal takes care of the situation by giving these smaller counties an opportunity to combine, to get together to work out their problems. There's no reason on earth why they can't do it.

Oh, I could understand it back in the days when even I, myself, used to say, "Giddup, Maude;" when I couldn't get across the county. However, today I get into my Comet and I can drive across quite a few counties and be there, if I left at 7 o'clock in the morning, at the county seat, going across a good many counties to get to that county seat so that I could take care of those cases were I a probate judge.

Actually, what are we doing here if we do as Mr. Habermehl wishes us to do? In giving these additional funds we are letting Oakland county, Genesee, Kent, Wayne and a couple more supplement those salaries. I think we had better start getting back to fundamentals and start worrying about what we are going to do in this state when these manufacturers and these businessmen who furnish these tax moneys get angry at us and leave the state.

I'm not alone in being worried about these taxes. There were men worried about this a good many years ago. I happen to have a clipping here from the Detroit Free Press in which a very conservative writer talks about who is doing the squeezing. And just to quote from Judd Arnett's article in the Free Press:

> For a long time the taxpayers of Detroit have been supporting the development of outstate Michigan. In the early 1920s the late Alex Groesbeck, then governor, spotted the drift of things to come.

Now, as I said, the committee provided for the situation in the smaller counties. They can combine and get themselves a probate judge. And there's no reason why we can't do that. And, frankly, I'm for deleting that section which supplements the salary of a judge at the expense of someone else.

VICE PRESIDENT HUTCHINSON: The Chair recognizes Mr. Martin, the delegate from the seventeenth district.

MR. MARTIN: Mr. President, I just want to comment on Mr. Habermehl's statement, because I think it is the most enlightened statement that we have had on this general subject so far this session. Every study that we have made shows that he is absolutely correct; that we can't have adequate probate courts in these counties unless we have enough base, enough cause for full time operation, so that we can pay these judges adequately for full time work, and staff those courts properly. So I want to second what he said. I think it is very important that we have this provision in here to give the legislature some flexibility.

Just one fact which I think is important to you — it was called to my attention last night that 40 per cent of all the arrests made in Michigan are of children under 17 years of age. This is a big problem — and it's a big problem for the smaller counties just as well as for the larger ones. It needs this kind of provision to make it possible to get those courts beefed up to the point where they can do the job that they are supposed to do.

VICE PRESIDENT HUTCHINSON: The Chair recognizes the gentleman from Bay City, Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, I would like to support the committee in this proposition and what the chairman, Mr. Danhof, said; and in particular recall your attention to the fact that when we voted on this last Friday we had less than 100 delegates on the floor, and it lost by 4 votes. So it may be important to review several of the most significant aspects of this.

While it is fresh in our minds, I would like to comment upon Delegate Madar's concern about Wayne county supporting outstate Michigan with this supplemental salary business. Now, this is really not the intention of the committee. All probate judges are now paid as provided by law, and all we are actually providing for is that their salary — if there is a judicial office combined with the probate judge — be augmented by some supplemental salary provided for by law to compensate for the additional duties, as provided by law, as the legislature may determine. This salary of probate judges now provided by law is not paid for by Wayne county. It is paid by the county in which the probate judge is working. So I hope this will put Mr. Madar's mind at rest.

Now, in speaking with other delegates since last Friday, I found that they had 2 concerns about this particular proposal. In particular, the first concern was with the clause which followed it and which was deleted in the committee of the whole, "and shall do so on recommendation and report of the supreme court." Last Friday I spoke and voted in favor of deleting that clause, and I do so again today. And I note that our committee chairman has not asked for the yeas and nays on that particular amendment. In speaking with other delegates, I feel certain that that should no longer be of concern to us.

Also, I would like to call to the attention of the delegates who may not have been here last Friday that this proposal will not affect Muskegon, Kent, Montcalm, Isabella, Midland or Bay counties, or any county south of these counties. It will, in the discretion of the legislature, only affect counties north of that line, of which there are 39 that fall into that general classification.

Another concern about giving this discretion and flexibility to the legislature was the fear that the legislature would just arbitrarily do this. I don't know whether you have had any experience in getting the legislature to act. Our county has, with regard to a judicial matter in setting up a second judgeship. But getting the legislature to act requires a concerted effort, for the most part, on the part of the district which is involved. And I would expect that before the legislature would act in either this alternative or in the first alternative, you would find that it would be the people in that area requesting the legislature to solve the problem in their area. And all that the committee has done, actually, is provide alternatives so that should the people go to the legislature, the legislature will be free and have sufficient flexibility in order to adapt a solution to the needs of that community. This is a flexibility feature. It is not self executing; it is not mandatory. It merely supplements the first alternative that we have provided.

I urge that you vote no, so that you will vote down the deletion, and will thereby be affirming the committee in its original proposal.

VICE PRESIDENT HUTCHINSON: The Chair recognizes the delegate from Wayne, Mr. Ford.

MR. FORD: Mr. President, I would like to take issue at the outset with Mr. Habermehl's statement that those of us who spoke the other day in favor of the amendment are worried about the tenure of the probate judges. I don't believe, Mr. Habermehl, that this in its wildest application could have any effect at all on the county that I come from. However, as I indicated the other day, if we are going to remain true to the principle that we want to separate a juvenile function and we have arrived at the idea that we have 1 court that up until now we have managed to keep adversary type proceedings out of, it seems that we are moving backwards when by constitution we indicate an intention to combine adversary and criminal proceedings with the present probate court.

Now, the probate court isn't a new concept in Michigan. Mr. Higgs said yesterday that many states don't provide for a probate court. Well, every state provides for a probate court, but not every state calls it a probate court. In some states they are called county courts, and in other states they have different names, but the probate function is performed, and I'm sure all the lawyers will agree, in the same manner as it is in Michigan by some court in every state in the union. And it is most generally true that what we consider to be probate functions, above and beyond the juvenile function, are handled by a court and in a manner and under procedures that are entirely different than the procedures that obtain in our courts of general trial jurisdiction.

The only thing that strikes me as a member of the judiciary committee, about this part of the proposal, is this: we have already provided that in the small counties, in order to be able to pay more money and in order to be able to serve more people with fewer judges, that they can combine the counties into districts. We have provided that this could be done for 2 purposes that were urged upon us. One was, as I have stated, that the cost of maintaining the court would be spread around a little thinner. Two, that probably by doing this they could obtain better juvenile facilities by having 1 juvenile judge for 3 or 4 counties instead of 1 serving a single county. And he of course could have referees, much as the system we have in Wayne county, and you would have a pretty nice system.

Then we come down to the situation where we are talking contrary to what we established with the very first article that we adopted on the judiciary, and that is that we wanted a 5 tier court system; and now we are talking about what the judicial committee came to know as vertical integration. We are not going to have a 5 tier system throughout the state of Michigan.

Mr. Habermehl said that he felt that people in one part of the state should be treated the same as people in another part of the state. I cannot under any circumstances be blamed for not having a personal interest in what happens to anybody in a county under 25,000, because I'm not sure, except for delegates to this convention, that I even know of anyone who lives in such a county. But if we are going to be consistent about establishing a uniform court system, and if we believe what we said at the beginning, on the first day, that we should have a 5 tier court system, with a clear 5 tiers, and that we should evolve the future of the court system within the framework of this so that we don't have splinter courts like the recorders court and common pleas and all the rest of them going up in the future, then let's do that. Now in the 5 tiers we have provided a very distinct line between the probate court and the fifth tier, the probate court being the fourth tier from the top, and the fifth tier from the top being some form of local court or countywide court, whatever the legislature might wish to provide.

Now we are being asked again to sacrifice at the altar of flexibility. I guess that everybody likes to use this phrase because it seems to pick up about 10 votes from someplace. There are 10 people that come to attention and vote whenever you say something is flexible. And I guess I've been guilty of this, too. But the flexibility is already here. There is nothing in this constitution, as I have indicated before, that prevents the legislature from adding to the duties of the probate court in these counties any duties that they wish to keep that judge busy. And, as has already been indicated, the only constitutional authority that court has comes from its juvenile function; all the rest of its functions are by statute. What we are getting involved in here is a situation where you can amalgamate the fourth tier and the fifth tier of the court system, and actually we will not have a 5 tier system; we will have a 5 tier system in counties over 25,000 and a 4 tier system in counties under 25,000.

For these reasons, and not because of the reasons that Mr. Habermehl has indicated, I would urge you to vote in favor of the committee of the whole's recommendation, and against the judicial committee's recommendation with respect to this particular phrase.

[President Nisbet resumed the Chair.]

PRESIDENT NISBET: The Chair recognizes Mr. Sleder.

MR. SLEDER: Mr. President and fellow delegates, the amendment that I think the delegates should be talking to is not the amendment on whether to combine counties for probate courts, "The legislature may combine 1 or more counties into probate districts." This is not the problem, and it seems that many of the lawyers are trying to confuse us in an attempt to say that this is what we are discussing. It is not this. It is the next part of the sentence, which says that the legislature or the supreme court may combine the work of the probate court and inferior courts. They likewise state the fact of the juvenile problem. It seems to me in their argument they are adding to the problem of the juveniles when they are adding work by combining the probate court and the inferior courts. They are complicating the problems in the juvenile section of the probate court rather than aiding it. I therefore feel that we should be speaking only on the part that is under discussion, the fact of combining the probate court with inferior courts in counties of under 25,000 population.

Likewise, Mr. Higgs states that this affects only counties north of the Bay City line. I'm sure on a poll you will find that a majority — and a large majority — of the delegates representing this area are in favor of striking this part of this sentence from the committee report.

I therefore urge you to vote yes on the present amendment before the convention.

PRESIDENT NISBET: The Chair recognizes Mr. Lawrence.

MR. HABERMEHL: Point of information, Mr. President. I believe that the present amendment makes no reference whatsoever to the supreme court. Is that correct?

PRESIDENT NISBET: Mr. Chase will read the amendment.

SECRETARY CHASE: Amendment 1:

[The amendment was again read by the secretary. For text, see above, page 1453.]

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: Mr. President, members of the convention, I feel that this particular section that we are dealing with now is one of the most important in the judicial section. I hope that we will obtain as large a vote as possible on it from the members of the convention.

If I understand this proposition right — and from things that have been said here this morning I am wondering if we do understand it — if you vote no at this time you in effect vote to restore the original language, which would allow the legislature to provide for the combination of the probate court with other courts inferior thereto in counties of 25,000 or less, in the hope and in the belief that by so doing we will create a better court system in those counties, and particularly, in this instance, with regard to the treatment and care of juveniles. Now, if that is right and if a majority vote of the convention against this amendment will restore that provision in the constitution, then by all means, if we have meant what we have said and we are trying to provide a constitution that is flexible — and I make no apologies for that word "flexible" — we should vote no. My only regret is that the committee saw fit to put 25,000 as the maximum, rather than some higher number.

We are trying to frame a constitution that will meet the needs of the people of this state for years to come. This isn't just a matter of legislation that can be amended or changed next year, or should be changed next year. This is a permanent provision, we hope. Our efforts should be to try to create a better system for the people of the state of a lasting nature. And by all means there is no indication whatever that this provision will inure to the detriment of the people of the state, particularly in the smaller counties.

I urge you to vote no on the present amendment, and in that way support the recommendation of the committee.

PRESIDENT NISBET: The Chair recognizes Mr. Norris.

MR. NORRIS: Mr. President, I feel that what we have before us is not only a significant portion of the judiciary article, but of the entire constitution, because I believe that the whole question, for example, of the bill of rights is one that infuses every section and every clause of the constitution; and we are dealing with an area which has a direct relationship upon the existence, perpetuation and vitality of constitutional rights. I say that because, first of all, this judicial committee proposal is to take the probate court and use it as a basis for constructing a kind of court in which we could get the highest standard and quality of justice. I think what we have to realize is that, after all, the purpose of the exercise of the judicial power is justice, and we are seeking to do that in this proposal.

I do think that a no vote, as explained by Mr. Lawrence, is in order here, for this reason: if you can take the probate court, which has a preserved, defined jurisdiction here with regard to juveniles, as stated in the last sentence of this section, and at the same time preserve that confined jurisdiction and add to it such functions as may from time to time be added which are now the province of the justice of the peace or circuit court commissioners, you are then able to secure an attorney — a person who is qualified to administer the kind of justice that would meet the local needs and state needs.

Now, why is that so important, particularly with regard to the exercise of the probate function? Today a juvenile does not have the protections of the Constitution of the state of Michigan or the United States. We have stated in our constitutional decisions that a juvenile may be deprived of constitutional rights, because we want to create a court that stands in loco parentis to a juvenile — that is, in place of the parents — so that we don't treat him as a criminal. We treat him differently, so that there can be a more sympathetic and compassionate approach, in order that we might get the salvageability of the youngster before us. That's the key thing — the salvageability of the youngster.

Now, if you have a person who is not a lawyer and who may not have all the qualifications which we would like to see here, you have a situation in which a youngster doesn't have constitutional rights, and you have sitting as a magistrate a person who may not even recognize that there is a deprivation of constitutional rights. He doesn't even have to give the person constitutional rights which he may not even recognize in the first instance. A juvenile doesn't have the kind of constitutional rights which even the most hardened criminal has; namely, the right to be informed of the charges against him, the right to counsel, the right to cross examination, jury trial — all the protections. And here you are going to place him before a person who doesn't even know that these rights are being denied in the first instance. So that it becomes more necessary than ever before to have a skillful person to extract the truth from a confused sea of hearsay, speculation, rumor and suspicion which constitute the basis for many of the pronouncements in juvenile court today. Most of the statements made in juvenile court are the product of secret investigations — of ex parte investigations, where the person who makes the investigation is not subject to cross examination. What is the purpose of cross examination? The purpose of cross examination is to get at truth. Truth is the basis for a judgment of the court. And you do not have these fundamental rights in a probate court which administers the juvenile matters. So it makes it even more important, in order to get a proper standard of justice, to create the opportunity for the legislature to take the probate court and add to it functions which are now the functions of other courts of inferior jurisdiction, particularly J.P.s and circuit court commissioners, so that you can make a court which meets the needs of the kind of justice standards we want today.

Now, I was very much disturbed by some amendments proposed at the time, that wanted to say, "Well, if the state wants to set these kinds of standards for local areas, then the state ought to pay for it;" as if the local people are not interested in a higher standard of justice. This I refuse to believe. I believe that if the facts are brought to the attention of all of the people, and if, as Judge Dehnke introduced before us, there is a distinct possibility, with the power of the legislature to create a referendum provision attached to the idea of synchronizing or amalgamating these judicial functions, it would be supported by the local people who indeed want a high standard of justice.

I am moved by the data called to our attention that 40 per cent of all the arrests in the state are of juveniles. This means that there must be seasoned, mature judgment to protect the rights of young people. After all, if these people do not see how constitutional rights are protected, how then do we have a model for them to emulate as adults?

It seems to me that the proposal which is before us — namely, the judicial committee proposal — permitting the opportunity of the court to be enlarged is a very fine proposal, constructive thinking, original thinking; and I think that it ought to be supported, and a vote no on the matter before us is in order.

PRESIDENT NISBET: The Chair recognizes Mr. Allen.

MR. ALLEN: Mr. President, I, too, favor a no vote. But I would like to make this point. I feel that all of the arguments which we are hearing today we heard at considerable length last week. I sometimes wonder, having gone through all of the arguments in the committee of the whole and then coming back into the plenary session and going through them all again, if we aren't going to be here possibly on June 15, rather than ending on May 15. Therefore, since all of these arguments have been heard, I should like to move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is that demand seconded? Those in favor will rise. There is a sufficient number up.

The question now is, shall the previous question be put? Those in favor say aye. Opposed, no.

The motion prevails. The question is now on the amendment. Mr. Chase will read the amendment.

SECRETARY CHASE: Amendment 1:

[The amendment was again read by the secretary. For text, see above, page 1453.]

PRESIDENT NISBET: The yeas and nays have been demanded. Those in favor of the amendment will vote aye. Those opposed will vote nay. Mr. Heideman.

MR. HEIDEMAN: Will you explain that vote again?

PRESIDENT NISBET: Those in favor of the amendment adopted by the committee of the whole will vote aye. Those opposed to the amendment adopted by the committee of the whole 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—56

Anspach	Hatcher, Mrs.	Pugsley
Baginski	Howes	Radka
Balcer	Hoxie	Richards, J. B.
Barthwell	Hutchinson	Richards, L. W.
Bledsoe	Kelsey	Rush
Bonisteel	Kirk, S.	Sablich
Boothby	Knirk, B.	Shackleton
Brake	Kuhn	Shaffer
Buback	Leibrand	Shanahan
Dell	Leppien	Sharpe
Donnelly, Miss	Lesinski	Sleder
Doty, Dean	Liberato	Stafseth
Finch	Lundgren	Stopczynski
Ford	Madar	Suzore
Gadola	Nord	Thomson
Garvin	Ostrow	Turner
Gover	Perlich	White
Greene	Perras	Wilkowski
Haskill	Plank	

Nays—80

Allen	Follo	Nisbet
Andrus, Miss	Goebel	Norris
Austin	Gust	Page
Batchelor	Habermehl	Pollock
Beaman	Hanna, W. F.	Powell
Bentley	Hannah, J. A.	Prettie
Binkowski	Hatch	Rajkovich
Blandford	Heideman	Romney
Brown, G. E.	Higgs	Rood
Brown, T. S.	Hodges	Seyferth
Butler, Mrs.	Hood	Snyder
Conklin, Mrs.	Hubbs	Spitler
Cudlip	Iverson	Staiger
Cushman, Mrs.	Judd, Mrs.	Stamm
Dade	Karn	Sterrett
Danhof	King	Stevens
Dehnke	Koeze, Mrs.	Tubbs
DeVries	Krolikowski	Upton
Douglas	Lawrence	Van Dusen
Durst	Mahinske	Walker
Elliott, A. G.	Marshall	Wanger
Elliott, Mrs. Daisy	Martin	Wood
Erickson	McCauley	Woolfenden
Everett	McGowan, Miss	Yeager
Farnsworth	McLogan	Young
Faxon	Millard	Youngblood
Figy	Mosier	

SECRETARY CHASE: On agreeing to the recommended amendment, the yeas are 56, the nays are 80.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the second amendment.

SECRETARY CHASE: Amendment 2:

2. Amend page 1, line 10, by changing the comma to a period and striking out "and shall do so on recommendation and report of the supreme court.".

PRESIDENT NISBET: The question is on the amendment. Those in favor—

MR. RADKA: Mr. President, I ask for the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Those in favor will rise. There is a sufficient number up. Those in favor of the amendment will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—104

Allen	Gust	Plank
Anspach	Habermehl	Pollock
Baginski	Hanna, W. F.	Powell
Balcer	Hannah, J. A.	Prettie
Barthwell	Haskill	Pugsley
Batchelor	Hatch	Radka
Binkowski	Hatcher, Mrs.	Richards, J. B.
Blandford	Heideman	Richards, L. W.
Bonisteel	Higgs	Romney
Boothby	Howes	Rood
Brake	Hoxie	Rush
Brown, G. E.	Hubbs	Sablich
Brown, T. S.	Hutchinson	Seyferth
Buback	Iverson	Shackleton
Butler, Mrs.	Judd, Mrs.	Shaffer
Conklin, Mrs.	Karn	Shanahan
Cudlip	King	Sharpe
Danhof	Kirk, S.	Sleder
Dehnke	Knirk, B.	Spitler
Dell	Koeze, Mrs.	Stafseth
DeVries	Kuhn	Staiger
Donnelly, Miss	Leibrand	Stamm
Doty, Dean	Leppien	Sterrett
Douglas	Lesinski	Stevens
Durst	Liberato	Stopczynski
Elliott, A. G.	Lundgren	Suzore
Elliott, Mrs. Daisy	Martin	Turner
Erickson	McCauley	Upton
Everett	McLogan	Van Dusen
Figy	Millard	Wanger
Finch	Mosier	White
Follo	Ostrow	Wilkowski
Goebel	Page	Wood
Gover	Perlich	Youngblood
Greene	Perras	

Nays—29

Andrus, Miss	Gadola	Nord
Austin	Hodges	Norris
Beaman	Hood	Rajkovich
Bentley	Kelsey	Snyder
Bledsoe	Krolikowski	Thomson
Cushman, Mrs.	Lawrence	Tubbs
Dade	Madar	Walker
Farnsworth	Mahinske	Woolfenden
Faxon	Marshall	Yeager
Ford	McGowan, Miss	

SECRETARY CHASE: On agreeing to amendment 2, the yeas are 104, the nays are 29.

PRESIDENT NISBET: The amendment is adopted. The secretary will read the third amendment.

SECRETARY CHASE: Amendment 3:

3. Amend page 1, line 14, after "dependents" by striking out the comma and "except as otherwise provided by law".

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, on this amendment the vote again was within 4 votes. I think it was 61 to 57 or 58. A number of the delegates were absent. We have had a great deal of discussion on this particular section. We spent a day on it. The committee's idea, as put forth in the report, was to grant to the probate court constitutional jurisdiction. That, if in the opinion of the legislature, it would become wise to be able to move this by providing a substitute, the flexibility — and I use the word almost with fear and trepidation — would be there.

I want to point out something. The jurisdiction has been granted. There is nothing the legislature has to do to give the jurisdiction to the probate court. That is there. And I think Mr. Higgs made quite a point here when he said that we know that unless there is a real concerted push, the

legislature very seldom makes any particular change. This would require the taking away — not the granting, but the taking away — and I submit that unless there is an adequate remedy or substitute provided, it would not be taken away.

Now, we have had all of the arguments about the family court and the juvenile court, and many others, and someone will speak on that, and I believe if you have any such provision or any such thoughts, by accepting and returning to the original wording of the committee you will allow this to be done.

I know this provoked a great deal of discussion. I would hope that today we might keep our remarks to a minimum and get on and vote, and try to finish other parts of the judicial article. I would urge that the convention not concur in the recommendation of the committee of the whole, and that you vote no.

PRESIDENT NISBET: The Chair recognizes Mrs. Judd.

MRS. JUDD: Mr. President and members of the convention, I agree with Mr. Allen, and also with the chairman of the committee, that this was thoroughly discussed in the committee of the whole, but the fact that there were such a large number absent and the fact that the vote was very close makes it, I think, somewhat dangerous to vote without reiterating some of the points that were made.

I hope this is the day that we are going to trust the legislature and leave this matter to it. I am in support of the committee's proposal to include the phrase "except as otherwise provided by law," for the following reasons. First of all, to delete it would be to violate the constitutional principle of flexibility. Except as to the justices of the peace in the old constitution, neither in the 1908 constitution nor in the committee proposal for a new constitution do we find any other specific assignment of jurisdiction to any court. The assignment of the juvenile jurisdiction to the probate court in the 1908 constitution might have been justifiable in 1908 on the grounds that it was a pioneering venture. Today, however, the concept of a nonadversary handling of juvenile matters is well established, and it is time for us in the 1962 convention to carry this pioneering venture into our own age of complex urban life. To do this we must open the way, constitutionally, to judicial recognition of the family as a whole as the setting within which juvenile problems must be handled.

The question before the convention, then, is whether we wish to provide the legislature with greater flexibility in determining the most suitable handling of the judicial aspects of these problems, particularly whether we should make it possible for it to allocate such jurisdiction to a higher level court. The unification and coordination of the judicial facets of family problems can only be fulfilled or can best be fulfilled by making a constitutional change.

Last week there was quoted on the floor here the case with respect to public act 186, 1913, which created, or attempted to create, a court of domestic relations in counties of 250,000 or over, and was declared unconstitutional, in that it deprived the probate courts of their constitutional jurisdiction over juvenile delinquents and dependents. We have further the word of such authorities, as to the need of constitutional change to achieve this, as Maxine Virtue. Those of you who have read her pamphlet, published by the University of Michigan, entitled, Public Services to Children in Michigan: A Study of Basic Structure, have read her conclusion, in which she recommends a study of changes needed in the legal machinery, and lists the following areas that might be considered, and I quote:

> Amend the constitution to provide for a more efficient judicial system by 1 of these methods:
>
> 1. Establishing a juvenile court on an area or circuit basis with especially qualified judges;
> 2. Providing a family court in the nature of a special tribunal with a specialized judge;
> 3. Transferring the present juvenile jurisdiction to the circuit court.

Now, what is this committee proposal, with this phrase included, designed to do? This is not the time or the place to discuss the details of the family court concept; but I wish to quote a few sentences from a 1959 publication of the national probation and parole association, now I believe called the national council on crime and delinquency, as a means of establishing their authority behind the concept. For instance, they state:

> The purpose of a family court act is to protect and safeguard family life in general, and family units in particular, by affording to family members all possible help in resolving their justiciable problems and conflicts arising from their interpersonal relationships —

and please note

> — in a single court, with one specially qualified staff, under one leadership, with a common philosophy and purpose, working as a unit, with one set of family records, all in one place, under the direction of one or more specially qualified judges.

If we were to read further in this report, we would see that they particularly recommend that such a court be placed on the level of the highest trial court. They recommend that it be established by the legislature. And if you were to read the suggested list of subjects that would come under their jurisdiction, you would see that it is still child centered; that it includes those aspects of family life as they affect the child that would come into a juvenile court.

Now I think we should again recall the attitude of the Michigan bar on the question of the constitution and the family court. The other day I read to you a portion of the report of the bar committee on domestic relations law, quoted in the Bar Journal of September 1959. I will not reread it now, but will remind you that, first, it indicated the desirability of a family court; second, that the family court would be possible only by constitutional amendment; and, third, that the proposed constitutional amendment should simply permit the legislature to establish such a court, and to confer its jurisdiction. It is interesting to note that on this committee were Maxine Virtue and Judge John Conlin.

I would remind you also of the recent poll of the Michigan bar taken on request of the convention's committee on judicial branch, in which question 22 was, "Should a family court be established?" And the answer was: yes, 2,952; no, 1,995. This was followed by the question, "If your answer is yes, should it be established by (1) the constitution?" — this got 979 votes — or (2) by the legislature?" — and this got 2,067 votes. In conclusion, then, I think that we must do some real soul searching as delegates in the way in which we make up our minds on this question.

Those of you who were here last week will recall that the only testimony brought to witness in behalf of deleting this phrase and freezing in the jurisdiction of the probate court over juvenile matters came from the probate judges.

We have heard many times through the months of this convention the need to elect our government officials so that they might be responsive to and close to the people. We delegates were elected by the people. I believe that this is our chance to demonstrate the sincerity and validity of this claim. We must ask ourselves as individuals, when we vote, "To whom are we closest, the probate judges or the people? Shall we, as representatives of the people, examine this question and determine it from the point of view of the welfare of the families in our increasingly complex urban life?"

PRESIDENT NISBET: The Chair recognizes Mr. Habermehl.

MR. HABERMEHL: Mr. President, fellow delegates, last week for about 2 days we were treated to a very lengthy discourse on this particular issue. The whole gist of the discourse was we must not mix up these adversary courts with these nonadversary courts.

I suggest to you that that completely missed the point of what the committee was trying to do here. As one who practices in the probate court, and as one with 5 children under the age of 17 and having a personal interest in this, I suggest to you that the name of the court has absolutely nothing to do with the issue. The issue is, simply: shall juveniles be treated as juveniles by our courts?

I think that Delegate Nord mentioned that the age of 17 is a rather ridiculous thing, and if it were at all possible to

insure that all juveniles would be treated in a manner that would attempt to effect their rehabilitation, in a manner that would attempt to make honest, decent citizens out of them, rather than to punish them, I would be in favor of any such approach. The real question, then, is the nature not of the court, or the name of the court, but the nature of the proceeding. If we assume that the probate court alone must have this, a particular court by the name of the probate court, we are assuming that only the judge of that court can look down off the bench and see that the person appearing before him is a juvenile. While I have had many arguments with judges, I have never found one that couldn't determine that the person in front of him was a juvenile. The nature of the proceeding then is the important thing, not the name of the court.

I believe that there must be something done here, as Mrs. Judd has mentioned, to unify, to bring together in 1 court all matters dealing with the family. Certainly no divorce can be granted without that court concerning itself with what is going to happen to the children of this marriage. Certainly no juvenile may be treated in any court with the idea of rehabilitating him or her without looking into that child's background and finding out what happened here in the marriage, in the family, that caused this child to become delinquent. If, then, all these matters can be considered in a proceeding, in any one proceeding, the entire picture will be before the judge of that court. Now, to say that only the probate court may do this simply doesn't conform to the facts. The circuit judges in our circuits throughout the state do it every day in a divorce matter.

Whether or not this jurisdiction should be in the circuit judges, whether it should be in the probate judges, or whether it should be in an entirely different sort of court setup, is a matter still to be determined in the future. Yet the amendment that was adopted here by the committee of the whole would freeze it into one place for as long as this constitutional provision endured. It would prevent the legislature from trying to effect this sort of unification of family matters.

I think the real issue, ladies and gentlemen, was put by Delegate McAllister when he said, "Judge Jim Lincoln is a friend of mine, and I promised him I would vote to delete this particular provision." The real issue here then is the concern on the part of some probate judges with any efforts or any attempts to tamper with their existing jurisdiction. I think we had all better recognize that any incumbent officeholder does not particularly desire any change in his power or jurisdiction. Yet for these officeholders, these particular probate judges, to say to this convention, "Don't you tamper with my jurisdiction; and what's more, make sure that the legislature will never do so," certainly is asking a great deal of this convention.

We are supposed to be proposing a constitution that will endure for a long period of time. To freeze juvenile jurisdiction into 1 court is simply not wise or good constitutional practice. I would urge a no vote on the matter of concurrence with the amendment of the committee of the whole.

PRESIDENT NISBET: The Chair recognizes Mr. Kuhn.

MR. KUHN: Mr. President, last week I heard so much from our delegates on how their probate judges thought on this matter that I went home and called my probate judge. To reply to Don Habermehl, I want him to know that my probate judge never called me or contacted me and told me how he stood on this issue. I consider my probate judge as probably one of the greatest authorities in this field. Certainly he is the bible in Michigan. Judge Arthur E. Moore is one of the most renowned probate judges in the United States. I called him yesterday, and he returned my call, and I said, "Judge, Committee Proposal 94 is on the floor, and I have heard so much talk about the last few words, 'except as otherwise provided by law,' I would like your thoughts on it." He said, "It should not be in there." I said, "Well, there's a great argument going on about family courts. The people are worried about them." He said, "That has nothing to do with it. They can still have their family courts." Therefore, I am prepared today to strike this language.

PRESIDENT NISBET: The Chair recognizes Mr. Yeager.

MR. YEAGER: Mr. President, we heard a great many arguments on this the other day. I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is the demand seconded? Those in favor will rise. There is a sufficient number up. The question now is, shall the previous question be put? Those in favor will say aye. Those opposed, no.

The motion prevails. The question is now —

MR. FORD: Mr. President.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: This is a matter of perhaps personal privilege, or maybe of parliamentary inquiry, I leave it to the Chair. But I think you may have noticed that none of the proponents of the amendment that is before the body now have yet taken the floor, although I guess one or more of us are on the list; and what is happening now is that all of those people opposing the minority report amendment which was adopted by the committee have had their say, and we are going to proceed to vote without hearing the other side. This is all right, I suppose, with respect to those who were here, but it has already been stated that there were 25 people absent the other day when we had the discussion.

I just call this to the convention's attention when you vote on moving the previous question.

PRESIDENT NISBET: The previous question has been ordered, Mr. Ford. The question is now on the amendment as adopted by the committee of the whole. Mr. Chase will read the amendment.

SECRETARY CHASE: The amendment is:

3. Amend page 1, line 14, after "dependents" by striking out the comma and "except as otherwise provided by law".

PRESIDENT NISBET: 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—63

Austin	Hood	Powell
Baginski	Howes	Pugsley
Balcer	Hoxie	Radka
Binkowski	Kelsey	Rajkovich
Bledsoe	Kirk, S.	Richards, J. B.
Brake	Knirk, B.	Rush
Brown, T. S.	Krolikowski	Sablich
Buback	Kuhn	Shackleton
Butler, Mrs.	Leppien	Shaffer
Dell	Lesinski	Shanahan
Donnelly, Miss	Liberato	Sharpe
Doty, Dean	Lundgren	Sleder
Douglas	Madar	Snyder
Elliott, Mrs. Daisy	Mahinske	Stafseth
Ford	Marshall	Stopczynski
Garvin	Martin	Suzore
Gover	Nord	Walker
Greene	Ostrow	Wilkowski
Haskill	Perlich	Wood
Hatcher, Mrs.	Perras	Young
Hodges	Plank	Youngblood

Nays—72

Allen	Figy	Millard
Andrus, Miss	Finch	Mosier
Anspach	Follo	Norris
Barthwell	Gadola	Page
Batchelor	Goebel	Pollock
Beaman	Gust	Prettie
Bentley	Habermehl	Richards, L. W.
Blandford	Hanna, W. F.	Romney
Bonisteel	Hannah, J. A.	Rood
Boothby	Hatch	Seyferth
Brown, G. E.	Heideman	Spitler
Conklin, Mrs.	Higgs	Staiger
Cudlip	Hubbs	Stamm
Cushman, Mrs.	Hutchinson	Sterrett
Dade	Iverson	Stevens
Danhof	Judd, Mrs.	Thomson
Dehnke	Karn	Tubbs

DeVries	King	Turner
Durst	Koeze, Mrs.	Upton
Elliott, A. G.	Lawrence	Van Dusen
Erickson	Leibrand	Wanger
Everett	McCauley	White
Farnsworth	McGowan, Miss	Woolfenden
Faxon	McLogan	Yeager

SECRETARY CHASE: On agreeing to the amendment recommended by the committee of the whole, the yeas are 63, the nays are 72.

PRESIDENT NISBET: The amendment is not adopted. This completes the amendments recommended by the committee of the whole. Are there other amendments?

SECRETARY CHASE: Mr. Sleder and Mr. Plank offer the following amendment:

1. Amend page 1, line 9, after "county" by striking out "with less than 25,000 population"; so that the language will then read:

> The legislature may combine 1 or more counties into probate districts, or combine the office of probate judge with any judicial office inferior thereto in any county with supplemental salary as provided by law.

PRESIDENT NISBET: The question is on the amendment. Mr. Sleder.

MR. SLEDER: Mr. President and fellow delegates, the discussion relative to the amendment to eliminate the combining of the probate court with other inferior courts, which was not adopted, was applicable only to those counties under 25,000 population.

With the points that were made here before the convention relative to the advantages of combining these 2 courts, the inferior courts and the probate courts, the combining of these 2 courts certainly shouldn't be limited to counties of under 25,000. It should be likewise as good for counties of 28,000 or 30,000 or 33,000, and we can go on continually. If the advantages are there for the counties under 25,000, it is very, very evident that they are there for the counties of over 25,000. Likewise, it has been brought out that this power should rest with the legislature. And if we are going to give the power to the legislature to determine what courts should be combined, the probate courts and the inferior courts, we should likewise give the power to the legislature to determine the population of the counties that this should apply to.

We here in Lansing should not sit and determine that the figure of 25,000 is a sacred, mystic figure that should determine if a probate court and an inferior court should be combined. I therefore urge you to vote in favor of this amendment, and strike the figure of 25,000 from the constitution.

PRESIDENT NISBET: The Chair recognizes Mr. Everett.

MR. EVERETT: Mr. President and fellow delegates, I find myself in agreement with Mr. Sleder and Mr. Plank, and I would support their amendment. I think that someplace there is a breaking point where the combination of these powers would simply overwork an already full court, but I'm not satisfied that the figure of 25,000 or 35,000 or any fixed figure is exactly that breaking point.

The principle which we fought for before, which the convention has now upheld, I think is applicable in a wider area than a range of 25,000. I recognize, as I say, that someplace along the way the legislature no doubt would draw its own line. But I think the amendment is valid, and I think that we should support it.

PRESIDENT NISBET: The Chair recognizes Mr. Radka.

MR. RADKA: Having hastily discussed the substance of this amendment with Mr. Plank and Mr. Sleder, and after hearing the remarks of Delegate Habermehl this morning and being foreclosed to add anything from the other side of the question because the previous question was moved, I felt that we should keep within the spirit as it was set forth by Mr. Habermehl that we should have a uniform court system throughout the state. I feel that if we remove this population figure we will help to keep ourselves honest. I urge you to support the amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, I am not going to voice any personal convictions, but I want to say this: the figure was not just pulled out of the air.

I agree that perhaps there is nothing magic about 28,000, so Alpena county might get in, or 30,000 would be as good. But information was furnished to the committee that at a figure around this 25,000 mark it would not become economically or judicially feasible to do what we allow the legislature to do; that is, about 25,000, maybe 30,000, maybe 35,000, if you have a probate court that has any activity in it in the probating of estates or the handling of minors, and any juvenile activity, depending of course on the staff and the competency thereof, you reach a point where any additional duties would not be feasible. Now, I, personally — and I speak only personally — think that the legislature would probably recognize this particular feature.

I only want to state that the 25,000 was not just pulled out of a hat as something which we thought sounded like a good number, and maybe we wrote it in there. There was some justification for it. That is why the committee voted the 25,000, and that is why the vote came out of the committee.

We did consider this amendment. This did not prevail for the reason that there were a number of delegates on the committee from the metropolitan areas who did not feel that this should be in because it was not feasible and probably would not be carried out. That's why the population limitation was written in there. I only give you the explanation of the committee.

PRESIDENT NISBET: The Chair recognizes Mr. Habermehl.

MR. HABERMEHL: Mr. President, fellow delegates, you heard from Mr. Sleder. Mr. Sleder's county of course is Grand Traverse, with 33,000 population. I'll give you the views of the other county in the northern lower peninsula that would not be included in this 25,000 figure. Alpena county has 28,556, and in my county there is a great deal of interest in being able to combine these courts.

I think, too, that trying to put a population figure in the constitution is a very difficult and unwise thing to do. If, for example, the county were to exceed that figure on the next census, does that mean that they would have to break up any court system that they might have established, and go back to separate courts?

Leaving it, as it is, to the discretion of the legislature and with the assumption that these counties would request the legislature to act, seems to me to be the most advisable thing that we could do. For that reason I would heartily support the amendment offered.

PRESIDENT NISBET: The Chair recognizes Mr. Heideman.

MR. HEIDEMAN: Mr. President, fellow delegates, I would simply like to concur with the amendment to strike out the 25,000 figure. I think it would be wise to leave this to the wisdom and the judgment of the legislature.

PRESIDENT NISBET: The Chair recognizes Mr. Young.

MR. YOUNG: Mr. President, I support Mr. Sleder's amendment. In my opinion the figure 25,000 is purely arbitrary, and it is dangerous to fix inflexible figures in the constitution. It is calculated to last for a number of years. This is especially true in the face of the rapidly changing population pattern within our state, as well as the great advances that are being made in transportation.

Now, I don't know what type of scientific examination the judicial committee made in order to arrive at the magic figure of 25,000, but I am told — and perhaps Mr. Danhof can correct me — that the figure started off somewhat higher, and was amended lower and lower, until finally it got to a figure that was lower than the population of any county of any member of the judicial committee. (laughter)

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President, I was just asked if I was going to defend myself, and I guess I wasn't paying attention, so I can't. I would like to echo what Chairman Danhof said. This figure was not picked out of the air. It was our thinking

that there is a valid line to be drawn. Larger counties are not in the same position as the smaller counties with regard to the applicability of this provision. I think there is some merit in the argument, certainly, that the drawing of this line properly is a legislative matter. I think there is, therefore, merit in the particular amendment, except that I have a strong feeling that the amendment is advanced — and I would say this not without foundation — in an effort to strike the whole proposal in that connection. If this amendment were offered in good faith and with a sincere desire to make it workable and flexible, I could support it. I would certainly like to have reassurance from the sponsors of the amendment that that is not their purpose.

PRESIDENT NISBET: The Chair recognizes Mr. Plank.

MR. PLANK: I'd like to ask Mr. Danhof a question, if I may.

PRESIDENT NISBET: Would you care to answer, Mr. Danhof?

MR. PLANK: Mr. President, Mr. Danhof, if you had so much reason for picking the figure of 25,000 and it was not just picked out of the air, why don't you share it with us?

MR. DANHOF: Mr. Plank, I thought I had. The information was given to us that at approximately this particular figure, assuming a reasonably active county from the standpoint of probation of estates and juvenile activity, if additional duties were added this would make a full time court in counties of up to about 25,000 or that particular number. Now, I can't give you the particular breakoff, but as the population increases and you get up to maybe 35,000, 40,000, 45,000 or 50,000 the duties assigned to the probate court become almost a full time job in and of themselves. It was for this reason that we came to the figure of approximately 25,000. As I say, I'm not sure of the magic number, and I think by study the legislature may arrive at this figure by its independent judgment.

Basically, the figures around this area came to me from information provided by the deputy court administrator, who is the one charged with studying the activities of the particular probate courts. It was for that reason that the majority of the committee voted to put in the 25,000 figure. And it was for that reason that it went through. Now, whether you strike it or not, perhaps the legislature will arrive at it.

That, Mr. Plank, was the reasoning for the 25,000 figure. At least in my opinion I think this is borne out by the committee records.

PRESIDENT NISBET: Mr. Plank.

MR. PLANK: I would say that Delegate Danhof has given us the argument we need to strike this 25,000 from the proposal, by saying that he feels the legislature might arrive at that figure, too. So let's let it.

PRESIDENT NISBET: The Chair recognizes Mr. Ford.

MR. FORD: I wish to support Mr. Sleder's amendment because I think that we have to be consistent. It seems that the convention has now determined by its last 2 votes, notwithstanding what we did last week, that there isn't any real need for a distinction between the circuit court and the probate court, or between the probate court and municipal courts or justice courts, or whatever might come below them. It seems that step by step the convention is going toward the idea that was advanced by some people very early in the convention that really what we should have is a single court on a supermarket basis, with divisions. Mr. Higgs prefers the example of New York. Some others prefer the example of California. But a long time ago the committee on judicial branch decided that we did need a 5 tier court system with 5 distinct tiers, and I thought this convention voted that way a few days ago.

Now, you may notice, for example, that none of the proponents of the 25,000 figure came from counties that are going to be affected as long as you leave the magic 25,000 in there. In other words, this is something that they think is so good that it's good for everybody else, but don't touch us, because we live in a county that has more than 25,000. And they now seek the protection of a constitutional guarantee that although you have flexibility, you aren't going to have it in their county; you have it for somebody else. I think it is also apparent that the delegates here who are representing the areas that will be directly affected by this figure of 25,000 were in opposition to the total concept.

Now, if we are going to remain consistent and say that we want flexibility, and we want the legislature to make this decision, then let's take the 25,000 out and let the legislature decide which counties are going to have a separate 5 tier system and which counties are going to have a supermarket court by some other name. If you really want to get flexible, let's go back and reconsider Committee Proposal 90, and say that there shall be a supreme court and such other courts as the legislature may provide, and let it do what it will with it. Now the question is, at what point do you stop being flexible? Is it at 25,000, or 26,000, or 17,000? Where do you want to be flexible, and where do you stop?

I want to take issue with the members of this committee who indicate that this figure was arrived at by some sort of consideration of facts and matters urged upon us by experts or people interested in the matter. We arrived at the figure of 25,000 by a process of elimination; by a series of amendments that started up here and kept coming down, down, down until 20 of the 21 members on that committee were no longer affected by it.

I want to be honest with the convention and say that the only reason I voted for it was because it wasn't going to touch a county that's anyplace close to me, and I felt that if somebody outstate felt that strongly about it, they ought to be entitled to have it. But I was surprised to find, after the committee took this action, that I haven't run into a single delegate to this convention who comes from a county of under 25,000 who wants this provision in there. Now, why is it that those of us from the large counties are so anxious to give our cousins from the smaller counties this wonderful flexibility that we are afraid to have for ourselves?

Now, if you're going to be consistent and are going to go all the way and amalgamate the court system into a supermarket court, let's do it for everybody right up and down the line as far as the legislature wants to go. Give it all the flexibility in the world.

PRESIDENT NISBET: The Chair recognizes Mr. Lawrence.

MR. LAWRENCE: Mr. President, members of the convention, for the reasons that I stated earlier, I would like to support this amendment as a real step forward. I believe I stated that I regretted that that limit had not been raised. Now, if someone will be good enough to put in an additional amendment to line 9 and take out the words "inferior thereto," and we pass both of these, I think we will have a provision we can all be proud of and that will be flexible, and that the people of the state of Michigan will benefit by.

PRESIDENT NISBET: The Chair recognizes Mr. Bonisteel.

MR. BONISTEEL: Mr. President, fellow delegates, I think that we have heard all the arguments that can possibly be made, and there are a number of arguments which I think are pertinent to this about flexibility and inflexibility, and all that sort of thing. I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is that demand seconded? Those in favor will rise. There's a sufficient number up. The question now is, shall the previous question be put? Those in favor say aye. Those opposed, no.

The motion prevails. The question now is on the amendment of Mr. Sleder.

MR. BARTHWELL: Mr. President, I demand the yeas and nays.

PRESIDENT NISBET: The yeas and the nays have been demanded. Is that demand seconded? There is a sufficient number up. Mr. Chase, will you read the amendment?

SECRETARY CHASE: The amendment by Mr. Sleder and Mr. Plank:

[The amendment was again read by the secretary. For text, see above, page 1461.]

PRESIDENT NISBET: The question is on the amendment. 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 — 121

Allen	Gover	Page
Andrus, Miss	Greene	Perlich
Anspach	Gust	Perras
Austin	Habermehl	Plank
Baginski	Hanna, W. F.	Pugsley
Balcer	Hannah, J. A.	Radka
Barthwell	Haskill	Rajkovich
Batchelor	Hatch	Richards, J. B.
Beaman	Hatcher, Mrs.	Richards, L. W.
Bentley	Heideman	Romney
Binkowski	Higgs	Rood
Blandford	Hodges	Rush
Bledsoe	Hood	Sablich
Bonisteel	Howes	Seyferth
Boothby	Hubbs	Shackleton
Brake	Hutchinson	Shaffer
Brown, G. E.	Kelsey	Shanahan
Brown, T. S.	King	Sharpe
Buback	Kirk, S.	Sleder
Butler, Mrs.	Knirk, B.	Snyder
Conklin, Mrs.	Koeze, Mrs.	Spitler
Cudlip	Krolikowski	Stafseth
Cushman, Mrs.	Kuhn	Staiger
Dade	Lawrence	Stamm
Dehnke	Leibrand	Sterrett
Dell	Leppien	Stevens
DeVries	Lesinski	Stopczynski
Donnelly, Miss	Liberato	Suzore
Doty, Dean	Lundgren	Thomson
Douglas	Madar	Tubbs
Durst	Mahinske	Turner
Elliott, Mrs. Daisy	Marshall	Upton
Erickson	Martin	Van Dusen
Everett	McCauley	Walker
Farnsworth	McLogan	Wanger
Faxon	Millard	White
Finch	Mosier	Wilkowski
Follo	Nisbet	Wood
Ford	Nord	Yeager
Gadola	Norris	Young
Goebel		

Nays — 8

Danhof	Karn	Powell
Hoxie	McGowan, Miss	Prettie
Judd, Mrs.	Ostrow	

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Sleder and Mr. Plank, the yeas are 121, the nays are 8.

PRESIDENT NISBET: The amendment is adopted. Are there any other amendments to Committee Proposal 94?

SECRETARY CHASE: There are none on file, Mr. President.

PRESIDENT NISBET: Mr. Radka.

MR. RADKA: Mr. President, I rise to a point of parliamentary inquiry. I offered an amendment, while we were sitting as the committee of the whole, which in effect provided for a referendum of the people in the event any combination or districting of probate courts was encouraged between counties. The amendment was after "districts" by inserting "upon approval of the electors of the counties being combined". My question is this: if I offered this amendment at this time and it were defeated, could it be offered again at the second reading of this particular proposal?

PRESIDENT NISBET: The answer is no, Mr. Radka.

MR. RADKA: That is the question I wanted to ask.

PRESIDENT NISBET: If there are no other amendments, then **Committee Proposal 94**, as amended, is referred to the committee on style and drafting.

Following is Committee Proposal 94 as amended and referred to the committee on style and drafting:

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

Sec. a. In each county organized for judicial purposes, there shall be a probate court. The legislature may combine 1 or more counties into probate districts, or combine the office of probate judge with any judicial office inferior thereto in any county with supplemental salary as provided by law. The jurisdiction, powers and duties of such courts and of the judges thereof shall be prescribed by law. They shall also have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. b. Judges of probate shall be nominated and elected at nonpartisan elections in the counties or the probate district in which they reside and shall hold office for a period of 6 years and until their successors are elected and qualified. In multijudge counties or districts the legislature shall provide by law for staggered terms.

General orders. Mr. Van Dusen.

MR. VAN DUSEN: 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.

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

The motion prevails. Mr. Van Dusen.

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

CHAIRMAN VAN DUSEN: The committee will be in order. When the committee last sat it was considering **Committee Proposal 95,** dealing with appeals from decisions of administrative tribunals. The committee had made certain amendments to Committee Proposal 95. There are further amendments to be considered. Before proceeding with their consideration, the Chair will ask the secretary to read Committee Proposal 95 as it has been amended to this point.

SECRETARY CHASE: Committee Proposal 95 has been amended in the following particulars, in line 12, strike out the word "clearly" — this is the net effect of that amendment — so the language then reads, ". . . in cases in which a hearing is required, whether the same are supported by reliable, probative, and substantial evidence on the whole record."; and in line 7, after "rights,", by inserting "privileges or licenses,".

For last previous action by the committee of the whole on Committee Proposal 95, see above, page 1440.

CHAIRMAN VAN DUSEN: The secretary will read the next amendment.

SECRETARY CHASE: Mr. Faxon has offered the following amendment:

1. Amend page 1, line 9, after "law.", by striking out the balance of the section.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Faxon, on which the Chair will recognize Mr. Faxon.

MR. FAXON: Mr. Chairman and members of the committee, I didn't expect we would get to this so soon. I am just going to make reference to some of the arguments that were used yesterday in asking for the inclusion of this particular section in the constitution, and ask that you consider whether the matter that I am asking you to delete could not be better handled through statutory legislation rather than through a constitutional provision.

It was indicated that this whole section was new, and that much of the material contained therein is already to be found in statutory matters in a majority of other states. Now, I make reference here to the fact that the first sentence gives to the legislature a sufficient grant of power to take care of the

ONE HUNDRED SIXTEENTH DAY

Friday, April 6, 1962, 9 o'clock a.m.

PROCEEDINGS

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

Our **invocation** this morning is to be given by one of our own delegates, Mr. Julius Sleder.

MR. SLEDER: Our heavenly Father, we thank Thee this day for the opportunity Thou hast given us of being able to serve as a delegate to this constitutional convention. We thank Thee for the opportunity Thou hast brought before us; the opportunity of knowing and associating with dedicated men and women, dedicated to a better life, a better state and a better government for all. We ask Thy guidance to fully explore these opportunities. We ask Thy guidance to develop these opportunities. We ask Thy guidance for the fulfillment of these opportunities. We also ask Thee to guide and direct each of us, and we pray that we may be more considerate and more tolerant of each other as we proceed to debate the issues, that our end result will be acceptable, not only to the people of Michigan, but also in the sight of Thee. Amen.

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

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

Prior to today's session, the secretary received the following requests for leave: Mr. J. A. Hannah, temporarily from this morning's session; Messrs. T. S. Brown and Krolikowski, from today's session; and Mr. Baginski, indefinitely, because of illness.

PRESIDENT NISBET: Without objection, the requests are granted.

SECRETARY CHASE: Absent with leave: Messrs. Baginski, Barthwell, T. S. Brown, Mrs. Butler, Mrs. Conklin, Messrs. DeVries, J. A. Hannah, Heideman, Krolikowski, Millard, Mosier, Norris, Ostrow, Rajkovich, L. W. Richards, Sablich, Stamm, Stevens and Tweedie.

Absent without leave: Messrs. G. E. Brown and Wilkowski.

PRESIDENT NISBET: Without objection, the delegates are excused.

[During the proceedings, the following delegates entered the chamber and took their seats: Mr. Wilkowski, Mrs. Conklin, Mr. G. E. Brown and Mr. J. A. Hannah.]

Reports of standing committees.

SECRETARY CHASE: The committee on style and drafting, by Mr. Cudlip, chairman, submits Report 52 of that committee, reporting back to the convention **Committee Proposal 90,** A proposal pertaining to the judicial branch;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 90 as reported by the committee on style and drafting, see below under date of April 23.

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 53 of that committee, reporting back to the convention **Committee Proposal 91,** A proposal pertaining to the supreme court;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 91 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 54 of that committee, reporting back to the convention **Committee Proposal 92,** A proposal pertaining to a court of appeals;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 92 as reported by the committee on style and drafting, see below under date of April 23.

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 55 of that committee, reporting back to the convention **Committee Proposal 93,** A proposal pertaining to the circuit court;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 93 as reported by the committee on style and drafting, see below under date of April 23.

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 56 of that committee, reporting back to the convention **Committee Proposal 94,** A proposal pertaining to the probate court;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 94 as reported by the committee on style and drafting, see below under date of April 23.

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 57 of that committee, reporting back to the convention **Committee Proposal 95,** A proposal pertaining to appeals from administrative tribunals;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 95 as reported by the committee on style and drafting, see below under date of April 23.

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 58 of that committee, reporting back to the convention **Committee Proposal 96,** A proposal pertaining to general and special provisions relative to the courts of the state;
with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 96 as reported by the committee on style and drafting, see below under date of April 23.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

Communications.

SECRETARY CHASE: None.

they should control. The people in the smaller communities of Wayne county do not feel that they should be lumped together in their local court system with the city of Detroit and I don't believe the people of the city of Detroit want their system to be extended on a countywide basis, so they are paying the cost of maintaining justice for those of us who live outside of the city. I strongly urge that you support the previous action of the convention and adopt the language as here presented and reject the Lawrence amendment.

PRESIDENT NISBET: The question is on the amendment by Mr. Lawrence. Those in favor say aye. Those opposed, say no.

The amendment is not adopted. The question now is on the adoption of Committee Proposal 93. Wil you ring the bell, please. Those in favor of Committee Proposal 93 as amended 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

Andrus, Miss	Garvin	Page
Anspach	Goebel	Perras
Austin	Gover	Plank
Balcer	Gust	Powell
Barthwell	Habermehl	Prettie
Batchelor	Hart, Miss	Pugsley
Beaman	Haskill	Rajkovich
Bentley	Hatch	Richards, J. B.
Binkowski	Heideman	Romney
Bledsoe	Higgs	Rood
Bonisteel	Hodges	Rush
Bradley	Howes	Sablich
Brake	Hoxie	Seyferth
Brown, G. E.	Hubbs	Shackleton
Buback	Iverson	Shaffer
Butler, Mrs.	Judd, Mrs.	Sharpe
Conklin, Mrs.	Karn	Sleder
Cudlip	Kelsey	Snyder
Cushman, Mrs.	Kirk, S.	Spitler
Danhof	Knirk, B.	Stafseth
Dell	Koeze, Mrs.	Staiger
DeVries	Kuhn	Stamm
Donnelly, Miss	Lawrence	Stevens
Doty, Dean	Leibrand	Stopczynski
Doty, Donald	Leppien	Thomson
Downs	Liberato	Turner
Durst	Madar	Tweedie
Elliott, A. G.	Marshall	Upton
Elliott, Mrs. Daisy	Martin	Van Dusen
Erickson	McAllister	Walker
Everett	McCauley	Wanger
Faxon	McGowan, Miss	White
Figy	McLogan	Wilkowski
Finch	Millard	Wood
Follo	Mosier	Woolfenden
Ford	Nisbet	Young
Gadola	Ostrow	

Nays — 3

Dehnke	Radka	Shanahan

SECRETARY CHASE: On Committee Proposal 93, the yeas are 110; the nays, 3.

PRESIDENT NISBET: **Committee Proposal 93,** as amended, is passed and referred to the committee on style and drafting.

Following is Committee Proposal 93 as amended and rereferred to the committee on style and drafting:

Sec. a. 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 circuit court shall be held at least 4 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 nor alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.

Sec. b. Circuit judges shall be nominated and elected at nonpartisan elections in the circuit in which they reside, and shall hold office for a period of 6 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. c. Circuit courts 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. d. 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 courts may fill any vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions.

SECRETARY CHASE: Item 5 on the calendar, **Committee Proposal 94,** A proposal pertaining to the probate court. A substitute for sections 13 and 14 of article VII.

Following is Committee Proposal 94 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 1463.):

Sec. a. In each county organized for judicial purposes, there shall be a probate court. The legislature may combine [1] ONE or more counties into probate districts, or combine the office of probate judge with any judicial office OF LIMITED JURISDICTION [inferior thereto] in any county with supplemental salary as provided by law. The jurisdiction, powers and duties of THE PROBATE [such] courts and of the judges thereof shall be prescribed by law. They shall also have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. b. Judges of probate shall be nominated and elected at nonpartisan elections in the counties or the probate district in which they reside and shall hold office for a period of 6 years and until their successors are elected and qualified. In [multijudge] counties or districts WITH MORE THAN ONE JUDGE THE TERMS OF OFFICE SHALL BE ARRANGED BY LAW TO PROVIDE THAT ALL TERMS WILL NOT EXPIRE AT THE SAME TIME [the legislature shall provide by law for staggered terms].

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, the committee on style and drafting reports back section a with basically no change from that passed by the committee and the convention. In section b, they merely make it consistent. "In counties or districts with more than one judge the terms of office shall be arranged by law to provide that all terms will not expire at the same time." The committee on style and drafting did not think it was dignified for the constitution to use the word "staggered." I don't know whether they were referring to the bench in whole or by individuals, but they felt there was a social connotation to the word "staggered" that was not conducive to the dignity of the bench. And so they arranged, although it took a line and a half to say what the word "staggered" does. It comes out, "with more than one judge the terms of office shall be arranged" and so on. I

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

would urge the adoption of the provision as returned by the committee on style and drafting.

PRESIDENT NISBET: There is an amendment. Mr. Chase will read.

SECRETARY CHASE: Messrs. Radka, Plank and Sleder offer the following amendment:

1. Amend page 1, line 3 [section a] after "districts" by inserting "upon the approval by a majority of the voters of each county voting separately on the question"; so that the sentence will read:

The legislature may combine one or more counties into probate districts upon the approval by a majority of the voters of each county voting separately on the question, or combine the office of probate judge with any judicial office of limited jurisdiction in any county with supplemental salary as provided by law.

PRESIDENT NISBET: The Chair recognizes Mr. Radka.

MR. RADKA: Mr. President and delegates of the convention, you will recall that when we considered Committee Proposal 94 on first reading, I offered several amendments. One prevailed, and actually the section is more palatable now than it was when it first appeared on the floor.

To put this in a nutshell: I believe that the county probate court is a local government institution of long standing and serves a definite purpose and function in each county. The reasons that were put forth for creating district probate courts — in other words to abolish certain county probate courts — were that there was not enough work in a particular county to keep a probate judge busy full time. Some people also said that this was a terrific waste of the taxpayers' money because this probate judge was not busy full time. The other argument that was put forth by the able members of the judiciary committee, the 20 and 1, was that it would establish a uniform court system. Now, I believe that what they had in mind was that if they created a probate district they might increase the salary of this probate court, attract an attorney to take this position, and thereby have a uniform court procedure. My first argument to you is this: that I don't believe that if we create a district probate court system that it will particularly give us a uniform proceeding before all probate courts in the state because the attorneys here are well aware of the different ways you handle different cases before different circuit judges, and the same is true of our federal judges.

I am real concerned about the fact that the members of the judiciary committee were all aroused and felt that they must do something for the local probate court system of the state. I don't feel that the hue and cry for this reform change came from the people of the counties who might possibly be affected by the change. I say that if you will look over a map of the state of Michigan you will recognize that this proposal, if it's going to have any effect at all, will have to be undertaken by the legislature. This makes me feel better because I think that the legislature, when they combine districts, will recognize the realism of the situation and will not do anything that will cause an upheaval of the probate court system in the state. But if we would just look over the state of Michigan, the counties that are most likely to be affected are found in the northern part of the lower peninsula and in the eastern part of the upper peninsula. Most of these counties are now handled by lay judges and this probably is what was behind the whole program. It was understood that you couldn't have a particular probate court operating in a particular way or as a county court with other jurisdiction being given to it unless you had an attorney; and there weren't enough attorneys from these areas to go around so they had to combine the courts into districts, not only horizontally but vertically, and maybe they could attract attorneys by dollars and then get what they ultimately intend to accomplish. But the end result is, we are destroying certain local courts in counties where I'm sure the electorate would want to keep them.

I say to you that a district probate court might function perhaps a little more efficiently from a strict technical and legalistic standpoint. But I also say to you that the probate courts in the northern part of this state are operated as local institutions. They do a great service to the people of their county. And I will say to you that a district probate court will give you less service for more money. If any of you have ever been up around our area, you should know that the lay probate judge is in his office most of the day. He is available to discuss with parents problems of their children, problems that they have with the police authorities. And I say to you that it will be a different problem when we have a probate district made up of, say, 3 counties. When Johnny gets in trouble on Tuesday night, Johnny may not see the probate judge until he comes through next week or maybe the following week. And if Johnny happens to live in the county that has the least population and the least amount of work and is not the home of the traveling probate judge, then maybe he won't have his problems taken care of until the meeting with the probate judge, which will have no effect on deterring his ways in crime.

All I'm asking by this amendment is just something very simple. We have a local institution and I don't believe that the people themselves have been criticizing it because, the way the probate courts have been doing their work in their respective counties, they know that it's been costing them too much. I say to you that at least the people of these particular counties, whose courts you intend to destroy or abolish, have the right to say so by a separate vote.

PRESIDENT NISBET: The Chair recognizes Mr. Everett.

MR. EVERETT: Mr. President and fellow delegates, I think most of the arguments on both sides of this matter were given before, but I do think that Mr. Radka's comments require some rebuttal. I appreciate his sincerity in making them and his plea for people who live in his county and similar counties.

Setting forth the reasons why the committee adopted this particular language, he has suggested that economy and uniformity were valid reasons, and they were. But I think he overlooked the primary reason why we adopted this language and why, I think, the committee of the whole adopted it. And that was our thought that there should be as good a caliber of justice as it is possible to constitutionally give to the people in the state of Michigan. This was the primary motive for providing for the districting of courts. We recognized that the deficiencies which now exist in the probate courts arose primarily because it is a part time court in so many areas. This is not a criticism of the judges in office, nor are we suggesting that solely for economy reasons do you lump it together to make it a full time job. We're convinced that it can be properly administered only by the highest caliber man if it is demanding of him in time and services. And it is important to remember that the probate judges themselves have recommended this to us and did recommend it to us.

We don't have a Gallup poll of the people of the counties on this, or so far as I know, any subject which comes before this convention, but we do have the report of the people working on the subject and in the field, and they say this is the way to do it. And I don't think that anyone can honestly suggest that these men are not interested in juveniles and they aren't interested in the work of the probate court. They are primarily interested in it and they have recommended this to us as a means of accomplishing more for the people through the courts than the present system of one court per county. Also it should be borne in mind that there is nothing in the committee proposal, as adopted or suggested here, which bars the vote of the people. If the legislature prefers to put the districting on a vote by counties, they have every right to do it and there is nothing here which prevents their doing it. This is the decision which we feel is up to them to make for themselves. We don't visualize that this would in any way reduce the service to localities. We think on the contrary, that it would vastly increase the quality of service to the people in counties both small and middle sized. We therefore feel that just as in committee of the whole this was rejected, it should be rejected here.

PRESIDENT NISBET: The Chair recognizes Mr. Sleder.

MR. SLEDER: Mr. President, fellow delegates, I would like to speak in support of the amendment. I'd like to point out the fact that we have given a great deal of attention and a great deal of consideration to putting government with the

people at the local level. I would say here, here is an area where we have taken it away from the people on the local level and put in into the state capitol. We feel that we should have a form of county home rule where we're going to decide in a county exactly what offices we're going to have, what type of county offices we're going to have. I would say we should likewise give the right to those same people to decide what type of probate court they're going to have. Are they going to have a probate court for themselves in this one county or is it going to be combined with 2 or 3 other counties?

I would like to speak in behalf of what Delegate Everett said on the level of the type of work, that a judge should be a busy judge. Certainly we have made it available in this constitution that the probate judge need not only be a probate judge, but he can likewise carry on a law practice. I feel that in this section, where we have made it possible for the legislature to combine counties into one probate court, we have taken away from the people of the area a right that they now have, of having a court in that county. We made it possible for the state to make several counties into one court district. I therefore support this amendment and urge you to do likewise. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Plank.

MR. PLANK: Mr. President, Mr. Everett left the impression that all probate judges wanted a multicounty district system. This is not true. As I understand it, they were divided down the line and there were many of them that did not want this. Perhaps the ones he talked to from the larger counties may have thought they should. But in the smaller counties in the north, this is not a desirable situation.

I also would like to point out that if we have a part time man today, he is there the part of the time that we really need him, and he is not in some other county giving us part time at his pleasure instead of the pleasure of the folks in the area that do need this type of attention. I am wondering about whether or not it would be any less costly. Salarywise, you'd have today probably $5,000 for each one of these part time probate judges. You might be able to get an attorney to take it for $15,000 if he could practice law on the side at the same time. This, in my estimation, would not be economy because he would not be available at the time we need him and you would not be saving money as it stands. All we're asking in this amendment is to make it mandatory that the people have the last say. I don't think that's asking too much. I ask that you support this amendment. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. McAllister.

MR. McALLISTER: Mr. President and fellow delegates, my county will not be affected by the amendment. I don't propose to tell the folks in the counties that will be affected how their courts should be run. I think they should have a right to decide their problems and to also decide by a vote whether they want to combine their courts, so I will support the Radka amendment.

PRESIDENT NISBET: The question is on the amendment. Mr. Danhof.

MR. DANHOF: Mr. President, members of the convention, Mr. Everett has told you our committee considered this very seriously and not from the standpoint of the big counties, because the big counties, those of maybe 250,000 people or over, or even smaller than that, will not be affected. But let's put the record straight as to what we have here. In the first place, there is nothing mandatory about this provision. Nobody is destroying any court. Nobody is taking away any judges. The judge is still going to be voted upon. The people in the county will still vote. If the legislature, when it decides it's going to create probate districts, wants to tie this in as a requirement, fine. If we were making it mandatory that they make probate districts — which we are not — then why tie in a mandatory requirement here? You don't tie the hands of the legislature when you give them a permissive action in other fields. If they want to do this, then I say the place to accomplish the particular purpose will be when the legislature decides in its wisdom if they are to have probate districts, where they are to have them, and under what circumstances.

We have a representative form of government. Let's make some use of it. We in the committee decided we wouldn't let the legislature make the determination. They may classify; they may decide not to do it. We think in their wisdom they will do it. If they want to do it, they can tie this in with it. I urge you to defeat the amendment. If not, you are tying the hands of the legislature on a matter where they may not even act. You haven't done it before in other places in this constitution. If this were mandatory, I would not have the particular objection that I do. We have not made it so. I urge that the amendment be rejected.

PRESIDENT NISBET: The Chair recognizes Mr. Shanahan.

MR. SHANAHAN: Mr. President, ladies and gentlemen, I speak in favor of the Radka amendment. I have this thought to offer: in a day, in a time, when a great many people seem to be going to a bigger capital to get something, here is a case where the counties in the northern part of the state are not asking for anything except to please let us handle this ourselves, just please leave us alone.

PRESIDENT NISBET: The question is on the amendment. Judge Mosier.

MR. MOSIER: Mr. President and delegates, something has been said here about the destruction of the probate courts. If you'll read the committee's report and proposal, you will find that there is no attempt to destroy or abolish courts. The courts are going to to remain just as they are, but they will serve, under the committee's plan, in the same manner that the circuit judges serve many counties. And you know that we have here in Michigan some circuits of 2, 3, 4 and 5 counties. The plan that is proposed here is very similar to the circuit court plan whereby one judge serves 2 or more counties.

In our judicial article that is being considered by this convention, it is the intention of the judiciary committee that all judges be lawyers, and they have provided the grandfather clause for these probate courts where they are now served by lay judges. But the time may come when that county may not have and could not have a lay judge because under the constitution, as we hope it will be adopted, it will be required that all probate judges be lawyers. Now, if the legislature should find some contiguous counties that would yield to a district plan similar to the circuit court plan, it could then unite those counties into one district. Each court would be by itself, but several courts, 2 or 3 or 4, as the legislature might determine, would be served by one judge. In my opinion, the legislature should not be tied by this amendment and I am in favor of the committee report and oppose the amendment.

PRESIDENT NISBET: The question is on the adoption — Mr. Radka.

MR. RADKA: First of all, Mr. President, I'd like to ask for the yeas and nays and then I would like to state that I recognize that there is nothing mandatory about the provision in the proposal that we are voting on, that the legislature might, if they so desire, require that the people first approve any particular act that they pass which would cause the creation of probate court districts, but at least it leaves you with the impression that the legislature would do this when they might elect not to do it. And I recognize something like this happening: with this provision you've got in this constitution now — though we haven't come to it yet — requiring that all judges of probate be attorneys, I think the legislature is going to find themselves confronted with this districting of probate courts quicker than you think if this document that we are contriving here should be accepted by the people.

We'll take Keweenaw county: they have no attorneys in the county but they do have a probate judge. Should this probate judge, with the grandfather clause, die or refuse to run, immediately you're going to find a probate court in a particular county that just cannot comply with the constitution. So what's going to happen is, the legislature will probably have to take the bull by the horns and create a district. And if they do this in haste, they probably won't want a vote of the people. They'll just create the district and this will start the ball rolling and this may be the pattern it will follow all the way through.

I'd like to briefly state my thanks to the eminent Judge

Mosier who has pointed out that you are doing nothing here which is so different than what we already have, and that is we're just creating the possibility of having probate court districts just like we have circuit court districts. And fellow delegates, I practice in an area where we have a circuit court district, 3 counties: Alpena, Presque Isle and Montmorency. Alpena is the heavy population end of the district. The judge lives and spends most of his time there. He is available for conference and for motions during most of the week. The judge has his term every 3 months up in our county, and on occasion, upon request, he will come up and hear things. It's not that the judge is not accommodating, but there is enough work right at his doorstep in Alpena county. So why should he bother with the little things in Montmorency county and Presque Isle county? And I assure you that this is that situation we're going to be confronted with if we start having probate court districts. And the problems of the probate court should not have to wait until the probate judge comes "a-riding" to your county, especially when he is dealing wtih juvenile matters. I don't feel that we are asking for anything here that is wrong. It made me feel a little bit better to find certain delegates sitting around this part of the floor who say: what is so unreasonable about this? A probate court institution in a county is something that has been with us for ages. Why not at least let the people decide whether they want their court to join with another county district?

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr President, may I ask how many speakers are now seeking recognition?

PRESIDENT NISBET: Three.

MR. VAN DUSEN: In that event, Mr. President, I move that debate on this amendment be limited to 10 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that debate be limited to 10 minutes. Those in favor will say aye. Opposed, no.

The motion prevails. Judge Leibrand.

MR. LEIBRAND: Mr. President and fellow delegates, I intend to vote for the Radka amendment. The amendment, in my opinion, goes in the direction of greater county, greater or enlarged county home rule, something to which most of us have been giving lip service at least throughout the convention. If these small counties feel they can afford the luxury of having their own probate judges, I don't believe the legislature should be empowered to force them into districts. I will vote for the Radka amendment.

PRESIDENT NISBET: The Chair recognizes Judge Dehnke.

MR. DEHNKE: Mr. President and fellow delegates, I think in the light of the comparisons that have been made between circuits or circuit courts and district or probate courts, it should be pointed out that there is a basic difference in the type of service rendered by the 2 courts. There is almost never any occasion when an individual litigant or an individual citizen thinks it necessary to confer with the circuit judge personally. It's practically always through an attorney that those contacts are made. Cases come up in their regular order, which is not true in the probate courts. In the counties with which I am familiar, the probate judges are in their offices and busy more hours than many of the county officials. There have been occasions when I have had to serve as interim judge of probate and I certainly have been impressed with the amount of work that can come to the probate judges' attention even in the smaller counties. I favor the Radka amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Heideman.

MR. HEIDEMAN: Mr. President, ladies and gentlemen, having just flown in from Keweenaw county — I was not there today, but yesterday. I was in Houghton county today — I believe perhaps I have the latest evidence on the situation there. Keweenaw county does have a lawyer. It is not without that natural resource. (laughter) I believe I can speak for the bar members. I was just the past secretary-treasurer of the copper country bar, which takes in several counties — 3 at least — and my lawyer brethren would like to see for the future in this constitution a provision that our judiciary be made up of members of the bar. So for the purpose of accuracy, I would like to correct the statement as to there not being any attorneys there.

PRESIDENT NISBET: The Chair recognizes Mr. Ford.

MR. FORD: Mr. President, members of the convention, as has happened before, it comes to the point where Mr. Danhof and I have to strain to continue our friendship while disagreeing. There is a principle involved in this that nobody seems to have touched on except Mr. Radka in his initial presentation, and that is this concept of allowing people in a particular area to govern themselves whenever possible to do so, consistent with the best interests of the statewide system of justice. And it seems to me that all that Mr. Radka's amendment is doing here is asking for a roadblock that simply says that if the legislature, in its wisdom, discovers a set of circumstances where 2 or more counties should be combined, that the people in that area should be the people who make the decision in the last instance as to whether or not this is a system preferable to them.

Actually, we're talking around and around the horn here about saving these people taxes. I think we ought to leave it to them to make the decision. If they want to — as the good judge from Bay City has indicated — pay for what to some of us might seem a luxury because of the per capita cost of maintaining the court, I think that's their privilege. And for this reason, because it is consistent with the principle of allowing these people to determine their own affairs wherever possible, I support the Radka amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Iverson.

MR. IVERSON: Mr. President and members of the convention, I rise to oppose this amendment and suggest only this: that we have provided here a method by which the legislature can carry on with what this committee has proposed. It doesn't mean for a minute that they might not do exactly what the pending amendment proposes. But let's not tie the hands of the legislature; let's leave some leeway to them to decide what should be done. I oppose this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Leppien.

MR. LEPPIEN: Mr. President and fellow delegates, as a former county clerk, I support this amendment wholeheartedly because I too, as Judge Dehnke so ably pointed out, know the number of times that other county officials have work to do and business with the office of the judge of probate, particularly in the field of marriages of young people and all of those matters of that kind. I urge the adoption of the amendment. I too realize that we're not actually creating districts by this proposal that we have before us. But I do point out that instead of tying the hands of the legislature, we're simply making sure that the people have the opportunity to make the final determination: do they or do they not want a probate court in their county? I urge the adoption of the amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Bradley.

MR. BRADLEY: Mr. President, I'll pass.

PRESIDENT NISBET: Mr. Martin.

MR. MARTIN: Mr. President, I only would rise to support the committee in its proposal and oppose the amendment because the purpose of the committee proposal is to enable the legislature, if it finds it can work better that way and it can do a better job, to provide for a probate court which will have a staff and personnel to do the kind of job with children that is necessary and that it ought to be doing. And if in addition to legislative approval you require a vote in 2 counties or 3 or 4 counties, your chances of ever arriving at that situation are remote. It seems to me that the legislature ought to be given the opportunity to do what it finds is necessary after consulting with people from the district and from the counties and with the legislators from those counties.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand seconded? Sufficient number up. The secretary will read the amendment.

SECRETARY CHASE: Messrs. Radka, Plank and Sleder have offered the following amendment:

[The amendment was again read by the secretary. For text, see above, page 2678.]

PRESIDENT NISBET: The question is on the adoption of the amendment. 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—71

Andrus, Miss	Gust	Richards, J. B.
Anspach	Haskill	Richards, L. W.
Austin	Hodges	Rood
Balcer	Howes	Rush
Batchelor	Hoxie	Sablich
Bledsoe	Hubbs	Shackleton
Bonisteel	Kelsey	Shaffer
Bradley	Kirk, S.	Shanahan
Brake	Knirk, B.	Sharpe
Brown, T. S.	Krolikowski	Sleder
Buback	Kuhn	Snyder
Butler, Mrs.	Leibrand	Spitler
Dehnke	Leppien	Stafseth
Dell	Mahinske	Stamm
Doty, Dean	Marshall	Sterrett
Doty, Donald	McAllister	Stopczynski
Downs	Nisbet	Thomson
Erickson	Ostrow	Turner
Figy	Perras	Tweedie
Finch	Plank	Walker
Ford	Powell	White
Garvin	Pugsley	Wilkowski
Goebel	Radka	Young
Gover	Rajkovich	

Nays—41

Barthwell	Faxon	McGowan, Miss
Beaman	Follo	McLogan
Bentley	Gadola	Millard
Blandford	Habermehl	Mosier
Brown, G. E.	Hatch	Page
Conklin, Mrs.	Heideman	Prettie
Cushman, Mrs.	Iverson	Romney
Danhof	Judd, Mrs.	Seyferth
DeVries	Karn	Staiger
Donnelly, Miss	Lawrence	Stevens
Durst	Lesinski	Van Dusen
Elliott, A. G.	Madar	Wanger
Elliott, Mrs. Daisy	Martin	Woolfenden
Everett	McCauley	

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Radka and others, the yeas are 71; the nays 41.

PRESIDENT NISBET: The amendment is adopted. There is another amendment.

SECRETARY CHASE: Messrs. Ford, Garvin, Krolikowski and Ostrow offer the following amendment:

1. Amend page 1, line 8 [section a] after "dependents" by striking out the comma and "except as otherwise provided by law".

PRESIDENT NISBET: The Chair recognizes Mr. Ford.

MR. FORD: Mr. President and members of the convention, we had a considerable amount of discussion revolving around this question; perhaps as much misunderstanding as on any subject that came up during the discussion previously of the judiciary article. What we are dealing with here once again is the magic language which destroys the constitutional guarantee written in the 1908 constitution for the first time, of a separation of the control over juvenile dependents and delinquents from other courts of general jurisdiction, whether they be general trial courts or criminal courts.

The effect of the language without the amendment would be to permit the legislature to lump together the traditional juvenile function now retained in a court which, by its very nature, is not an antagonistic court or a court where antagonistic proceedings are had. And those of us who supported this before feel as strongly as before, that it is absolutely essential that this constitutional guarantee of separate treatment for juveniles be continued. It has been a very workable thing in the Michigan constitution since it was put in in 1908. It has received no criticism from anyone with actual experience in the field of the administration of justice. There is no advocate who has appeared by letter or in person before this body or before any committee of this convention who has had actual experience in the administration of juvenile justice and juvenile matters. We have only as a support for the proposition of taking this constitutional guarantee away the wishful thinking of a small group of social workers who indicate that to them, there should be a conglomerate merging of the juvenile function with the functions of other courts. We urge you to adopt the amendment and continue the tradition of the separation of the juvenile from the other courts.

At this point, I would like to yield to any of the cosponsors who might want to speak on it. Mr. Garvin, I believe, is the first one.

PRESIDENT NISBET: The Chair recognizes Mr. Garvin.

MR. GARVIN: Mr. President and delegates, I hope, since we had the last discussion concerning this matter, the possibility of placing juveniles as identified by law in courts with adults has been checked up on by you. I hope that you have investigated it and I certainly hope you have considered it, because to me, having worked with juveniles for quite a while, it is very important that we do keep them out of the adversary courts. Now, one of the reasons for that, of course, is because so often the juvenile judge can settle matters as far as children are concerned in a private office, if there is one, or in the juvenile court, regardless of which might be the case.

I have talked to some delegates around here about their courts. They tell me that the probate court generally takes the child and the parents into a separate chamber and discusses the matter with them and then decides what to do, not in front of the public, but with the parties who are interested therein. And as a result, very few minors actually go to court compared to those who are arrested. But if they were, they would be going to court if the legislature should take some action to place this in the same category of adults.

Just recently, before we had the good or bad fortune of not having to read the Detroit papers recently, there was a matter where there were 2 brothers, one 14 years old and, I believe, the other was 18. And the probate judge refused to waive jurisdiction of the 14 year old to be tried for murder in the recorders court for the city of Detroit. I believe the boy was finally released because he felt that the boy was influenced by the older brother and as a result, he refused to release him to be tried for murder. There are other cases like that. But if we go on record here now of allowing "except as otherwise provided by law" to be added to this paragraph instead of leaving it like it was, we are opening ourselves and our children and our grandchildren to a situation that may not be agreeable.

PRESIDENT NISBET: The Chair recognizes Mrs. Judd.

MRS. JUDD: Mr. President, members of the convention, what I have to say on the subject is no reflection on the eminent juvenile court judges who were here the other day and gave us their great concern for the welfare of the children that they were handling. We know that they are doing an excellent job. But I do want to speak against the amendment on the grounds, not of what we have today in certain places, but on the grounds of the long view, with the increasing family problems which require some unified kind of treatment such as we do not get today with all the family matters scattered in different courts and agencies.

I am not going to repeat those arguments but I would like to tell you that you may remember I quoted from the standard family court act, which is published by the national council on crime and delinquency. So following the debate, I wrote a letter to that organization, asking them the questions that had arisen in the debate. This is an organization which you know is thoroughly familiar with juvenile court problems in Michigan, having made many studies and surveys, both for the state and for local courts. I only want to read you a few sentences from their reply. They state:

> We are certainly in accord with the proposal of the committee on judiciary to the constitutional convention that the constitutional provision relating to juvenile court jurisdiction should be flexible enough so that the legisla-

ture might establish a family court either separately or on the circuit court level. Leaving the present constitutional provision as it is, assigning to the probate court the jurisdiction over juvenile delinquents and dependents, would bar the development of a family court such as is proposed in the standard family court act.

Further down they say — they repeat my question:

Are we opening the way for a return of the juvenile handling by adversary procedures? We do not see this as a danger at all. The characteristics of a modern handling of juvenile cases are informality plus the use of social services. The reading of the standard act will show you how informality is protected, not only in intake but also in the jurisdictional hearings. The danger is often the other way, for the less well trained probate judges, or inferior court judges in other states, have led to the occasional charge that the juvenile court is a "star chamber."

There was another question I asked:

Why do you feel that a family court should be on the level of the highest trial court? To answer that we turn to the nature of the jurisdiction. Probate is essentially a property court, whereas the family court brings together no jurisdiction over purely property matters, but deals with people with behavioral or other personal problems, and all centered around the family. Even as these things are being debated, the one pattern that seems rather doubtful should certainly not be frozen in the constitution as the only structure.

On this point I should like to add that the juvenile jurisdiction for the probate court is the only constitutionally established jurisdiction in our judicial article as we have it in the constitution. If you will read the paragraphs on the jurisdiction of the other courts, you will see that in every respect they are subject to legislative action. This is even so with respect to the probate court itself in Committee Proposal 94 on lines 5 and 6, which say, "The jurisdiction, powers and duties of the probate courts and of the judges thereof shall be prescribed by law."

Now, we should note that this provision which adds the phrase "except as otherwise provided by law" does not set up a family court in itself. It does not deprive the probate court of juvenile jurisdiction; it will remain there unless the legislature provides otherwise. It seems to me that we should provide the flexibility in the jurisdiction of the probate courts as we do for all other courts, and that we should trust the legislature to adjust the courts to the future needs of our growing population.

PRESIDENT NISBET: The Chair recognizes Mr. Garry Brown.

MR. G. E. BROWN: Mr. President, members of the convention, I'd like to address a question to Mr. Ford, if he would answer, please.

PRESIDENT NISBET: If Mr. Ford cares to answer it.

MR. G. E. BROWN: Mr. Ford, in discussing this proposal with probate judges with whom I am acquainted, the question came up as to whether or not there could be a juvenile court as such. Specifically that established if the language "except as otherwise provided by law" were stricken. I think that the probate judges that I talked with wanted to retain this language until it occurred to them that in setting up a juvenile court to do exactly that which you and Mr. Garvin and some of the others have suggested, this couldn't be done and then they were not quite so sure that the words "except as provided by law" should be stricken. Do you have an opinion on this matter?

MR. FORD: Well, it's more than an opinion. I can cite you the fact. The fact is that in Wayne county we have a juvenile court. For all intents and purposes, the average citizen in Wayne county does not realize that their probate judge who sits in the juvenile court is actually the probate judge because he is clearly identified in the minds of the people as a person who devotes his full time to juvenile affairs. So far as I know, there is not another county in the state that has a full time juvenile judge by the constitutional provision. They are prevented, I assume, from the fact that they have neither the population nor the money to afford a second judge. Under the system as it operates in Wayne county, we give him a separate staff, entirely separate from the rest of the court and set him up in a different building. However, in basic jurisdiction, because there are so many matters that tie in, as Mrs. Judd has indicated, with the actual conduct of juvenile affairs, that are handled through the probate courts traditionally and by statute, a long tradition of having the probate court handle them, the appropriate place for juvenile court in our opinion is in the probate court.

MR. G. E. BROWN: Mr. President, Mr. Ford, for Mr. Ford's edification, I would like to tell him that in Kalamazoo, we have a juvenile division of the probate court which is in effect a court of its own. However, these judges, on occasion, when you have 2 of them, are required to, in comity among the judges, sit in both capacities. It seems to me that it would be very proper to have a separate and distinct juvenile court, as such, not dependent upon the jurisdiction of the probate court. And for that reason, I would support the retention of the present language.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. STAIGER: Point of order, Mr. President.

PRESIDENT NISBET: Mr. Staiger.

MR. STAIGER: This matter, this identical amendment, came out of the committee of the whole on page 71 of the journal, as amendment 3. Then on March 6, on page 712, the convention did not concur in the amendment. It seems to me that this same rule would apply that the convention has expressed its will on this question and it cannot be brought up at this time.

PRESIDENT NISBET: Mr. Staiger, in view of a previous decision made on this type of thing before, this amendment will be allowed. Mr. Higgs.

MR. HIGGS: Mr. President, fellow delegates, in view of the fact that we have debated this at length on a prior occasion, I do not wish to be unduly repetitious or to make a lengthy statement. But there are a few facts that I would appreciate your consideration of in this connection. First of all, the provision "except as provided by law" was not intended by the judicial committee to indicate that the legislature should act to take anything away from the probate court. Neither was it intended as a criticism of the manner in which probate courts are handling juvenile matters. Rather, it was intended to permit the legislature — presumably after study, hearing and greater deliberation than this convention has given or can give this matter — wide latitude in determining the best method of handling juvenile problems in the light of future experience not only of our own courts, but of the courts of other states, the experience of which is yet unknown to us at the present time. I think without question that the action of this convention in approving this language upon the first reading was a step forward in this particular area.

Certain statements have been made that I think should be corrected. First of all, the statement that no one connected with judicial administration with actual experience has ever recommended such a thing as a family court, and that this is merely wishful thinking. I'd like to say to you that this is absolutely not true. The committee, with regard to the standard family court act — and bear in mind I am not proposing to you that we freeze or adopt into the constitution this act, but merely to leave open the way. The committee that proposed this includes a large number of people from all over the United States with just such actual experience as Delegate Ford said was lacking. I would like to say from my own state of Michigan, serving on this committee was Justice George Edwards of the Michigan supreme court and also Professor John B. Wade of the University of Michigan at Ann Arbor. This committee included juvenile and domestic relations court judges from all over the country and a large number of representatives from the national council of juvenile court judges. It included representatives from the department of health, education and welfare, the social security administration, the children's bureau.

I would appreciate also that you consider the fact that the lawyers of the state of Michigan, in being polled upon the question of a family court, overwhelmingly recommended that

such a court be established, with 2,900 yes to 1,900 no. However, the recommendation was 2,067 to 979 that it be permitted to be established by the legislature — exactly what the committee has recommended.

I'd like to also call your attention to an article that appears in the Journal of Public Law, which I have from the Michigan state law library, entitled Family Courts — An Urgent Need, written by Harriette L. Goldberg who is specialist, child welfare legislative division of social services of the children's bureau of the social security administration, and also William H. Sheridan who comes from the division of juvenile delinquency service of the same children's bureau. And in this particular article these authors state this:

> A little child died of malnutrition. She was an adopted child whose adopted parents had been charged with neglect in one court prior to the adoption which was granted by another court. This tragedy occurred in a large urban community, where specialized social services were available to courts. This tragic event raises many questions: why should 2 courts be involved in the proceedings so closley related and involving the same people?

I only point that out because the particular court which would have before it the jurisdiction with regard to child neglect would be an adult criminal court. And accordingly it is necessary, in setting up a family court, that such jurisdiction be included.

I would also like to say that while this standard family court act was approved by this committee, including Justice Edwards of the Michigan supreme court and Professor Wade, that while this was adopted only as recently as 1959, Rhode Island has already adopted essentially this same family court, because I wrote the committee and asked them whether it had been adopted anywhere, and Rhode Island has adopted such an act. New York has passed also a family court act last year. Accordingly, I urge, and I think the most significant thing that we can do in the probate court section is merely to leave open the door to the possibility for the legislature to treat this matter in the most enlightened way possible. I urge you to vote no on this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit further debate on this amendment 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. Mr. Martin.

MR. MARTIN: Mr. President, when this matter came up before, I supported this amendment. Since that time, I've had an opportunity to do some considerable study on the problem and it now appears to me that we would do far better to leave the language of the proposal as the committee has reported it, not because we necessarily favor a family court. But we have been working — those who are interested in these problems — have been working for years to give the probate court sufficient strength, sufficient staff, sufficient financing to enable them to do the job that needs to be done with the children in our state. In the last study we made of this problem we had to admit that children who get in trouble in Michigan are treated worse than the adults who get into our criminal courts and have difficulty. We have not succeeded as yet — and those of us who are working on the problem hope that we will succeed — and we are doing our level best to strengthen the probate courts throughout the state.

The action taken in the committee to make it more difficult to set up district probate courts is an action in the wrong direction in that sense because it makes it more difficult to provide these services. However, it would appear that we do have an opportunity to strengthen our probate courts and to make them capable of carrying the load they ought to be carrying. On the other hand, if we are not able to do that and if it develops that we are not providing the services that we should for our children, then there should be a possibility for the legislature to take some other course. That's all that the committee language makes it possible to do. For that reason, I would oppose the Ford-Garvin amendment and hope that you would support the committee.

PRESIDENT NISBET: The Chair recognizes Mrs. Cushman.

MRS. CUSHMAN: Mr. President and fellow delegates, I too would like to oppose the amendment and speak for the report that we have originally before us. It seems to me that it is very important to think in terms of the interest of all children. At the present time we are on the whole satisfied with our present system, but to freeze it into the constitution and make it impossible if in the future we get new concepts or new ideas that we would like to put into our courts in Michigan, seems to me is most unwise.

At the present time, I think the chief question that we have before us is the fact that the children who may be in trouble in case of juvenile delinquency are handled in one court and in cases where they are held because of their parents getting a divorce, they're in another court. Now, we don't at the present time contemplate any particular change in this but it certainly would be most unwise to rule this out for all time. Therefore, in the interest of the flexibility of the constitution, I would urge that we keep these words in this particular proposal. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Kuhn.

MR. KUHN: Mr. President, members of the convention, Mrs. Judd alluded to a statement that was in the Detroit News about the probate judges that were up here lobbying against these particular words being in our constitution. First, I'd like to correct for the record that the article in the Detroit News was grossly wrong, that it stated that the Honorable Arthur E. Moore of Oakland county was here in this building lobbying. I checked with Judge Moore just a week ago and he told me he was never in this building on that particular day. And I do want that record to be absolutely correct because the judge was not here. The Detroit News inaccurately put his name in that slanderous statement.

Now, I am opposed to the committee recommendation and I do favor the amendment because of the fact this language in the constitution is not needed to provide for a family court.

PRESIDENT NISBET: The Chair recognizes Miss McGowan.

MISS McGOWAN: Mr. President and fellow delegates, I rise in opposition to the amendment and to speak in favor of the committee report. Now, my reason for being in favor of the committee report is that I feel we're writing a forward looking document, a document that looks to the future. All the committee report asks is that the legislature be given a chance to study the situation and if it finds it necessary to create a family court or domestic relations court, that it be allowed to do that. I feel that is little enough to ask, and I would ask you to support the committee report and vote against the amendment. Thank you.

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President, I hope the debate on this matter is coming to an end. We debated it considerably in committee of the whole and in the convention. While I abide by the ruling of the Chair, I think the Chair might reconsider. On the other hand, I would urge again: we have granted the original jurisdiction to juveniles in probate court, it undoubtedly will stay there, it will stay there except if by study and by reason and by push it is felt that a separate court, be it juvenile or domestic relations, is needed. Here we have something where the probate court is given the original jurisdiction. This is the only place where we set out jurisdiction requirements in the whole constitution. Even in the circuit court, they have original jurisdiction, but it may be changed. This is a matter which can best be left to the legislature; the probate courts have it. In those areas where they do a good job, they will retain it. I would urge that we defeat the amendment and proceed with our deliberations.

PRESIDENT NISBET: The question is on the Ford amendment. Those in favor will say aye. Thosse opposed, no.

The amendment is not adopted.

MR. FORD: Mr. President, I request a record roll call vote.

PRESIDENT NISBET: A record roll call vote has been demanded. Is the demand seconded? Sufficient number up. Those in favor of the Ford 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—32

Austin	Ford	Ostrow
Balcer	Garvin	Richards, L. W.
Barthwell	Hart, Miss	Sablich
Binkowski	Hodges	Sharpe
Brown, T. S.	Hoxie	Snyder
Buback	Kelsey	Stafseth
Donnelly, Miss	Krolikowski	Stopczynski
Downs	Kuhn	Walker
Elliott, Mrs. Daisy	Lesinski	Wilkowski
Faxon	Madar	Young
Finch	McAllister	

Nays—83

Andrus, Miss	Goebel	Perras
Anspach	Gover	Plank
Batchelor	Gust	Powell
Beaman	Habermehl	Prettie
Bentley	Hanna, W. F.	Pugsley
Blandford	Haskill	Rajkovich
Bledsoe	Hatch	Richards, J. B.
Bonisteel	Heideman	Romney
Bradley	Higgs	Rood
Brake	Howes	Rush
Brown, G. E.	Hubbs	Shackleton
Conklin, Mrs.	Iverson	Shaffer
Cudlip	Judd, Mrs.	Shanahan
Cushman, Mrs.	Karn	Spitler
Danhof	Kirk, S.	Staiger
Dehnke	Knirk, B.	Stamm
Dell	Lawrence	Sterrett
DeVries	Leibrand	Stevens
Doty, Dean	Leppien	Thomson
Doty, Donald	Marshall	Turner
Durst	Martin	Tweedie
Elliott, A. G.	McCauley	Upton
Erickson	McGowan, Miss	Van Dusen
Everett	McLogan	Wanger
Farnsworth	Millard	White
Figy	Mosier	Wood
Follo	Nisbet	Woolfenden
Gadola	Page	

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Ford and others, the yeas are 32; the nays are 83.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Miss Donnelly offers the following amendment:

1. Amend page 1, line 3, [section a] after "or" by inserting "upon the approval by a majority of the voters of the county involved"; so that the language will then read:

> The legislature may combine one or more counties into probate districts upon the approval by a majority of the voters of each county voting separately on the question, or upon the approval by a majority of the voters of the county involved or combine the office of probate judge with any judicial office of limited jurisdiction in any county with supplemental salary as provided by law.

PRESIDENT NISBET: The Chair recognizes Miss Donnelly.

MISS DONNELLY: This amendment merely allows for the individuals who would be concerned on a vertical combination of putting your probate court judges down with what used to be your JPs or down in the area with your other lower inferior courts, some of your municipal courts, or any of the other courts of jurisdiction inferior to the circuit court. If you wish to combine these in a county, this allows for the individual citizens to vote on the issue. This is put in on the theory that it is a very important thing in the mind of this convention to have the citizens vote on the issue. If you combine districts and horizontally combine probate courts, then they should also, when they're going to combine them vertically with courts of inferior jurisdiction, have the people have a right to vote thereon.

This language should be more consistent with the effect of having the probate court visiting their jurisdiction over the juveniles and eventually allowing the probate court to take over the JP functions. Therefore, if the individual members of the counties don't wish this, this would be their opportunity to act thereon. I therefore urge your support on this amendment because it gives the flexibility to the people that, apparently, this convention wishes.

PRESIDENT NISBET: The question is on the amendment offered by Miss Donnelly. Mr. Everett.

MR. EVERETT: Mr. President, I think there are 2 strong objections to this amendment. First of all, if you read it, it would require a majority of the voters of the county to pass on this. This would mean presumably that a majority of all the registered voters would have to say yes. Even though they didn't vote in the election, they would be voting no by simply being registered. But more important than that, apparently some of us at least are taking the attitude that what happens in a given county in the administration of justice has no effect anyplace else in the state. I think if we stop and realize for a minute, a poorly functioning juvenile court in one county does have an effect on the state throughout. You cannot separate by arbitrary, imaginary county lines the effect of poor administration of justice and lock it in and say: you now have mishandled your juveniles. Keep them there. Don't let them travel throughout the state and bother the rest of us.

The administration of justice is part of a whole. It is limited enough when we limit it to the state, but certainly that is as far as the limit should go. Good administration of justice in any part of the state is going to be helpful to all the state. Bad justice in any part is going to harm all of us. If it is necessary — and none of us at this point know if it is necessary — to combine the functions of courts to establish good justice, then it is necessary for the people of all the state of Michigan, and not simply those in a given county. Therefore, I would oppose this amendment and hope that it would be defeated.

PRESIDENT NISBET: Mr. Habermehl.

MR. HABERMEHL: Mr. President, fellow delegates, I would like to rise to oppose this amendment also. The act that we can expect the legislature to pass pursuant to this provision would simply be an enabling act, enabling the county to adopt it. I doubt very much that the legislature would require any particular county to do it. Now, the people most competent to judge actually whether or not this would be an effective method for the operation of the local courts would be probably the board of supervisors of that particular county. And if they decided to set up such a system — and I think this would be the one system that would be used more than the probate district court idea — then I think that it should be within their power to do so. Otherwise, we will again have people passing upon this question for the handling of juveniles who are not fully informed upon the matter. I urge the defeat of the Donnelly amendment and the support of the committee's position.

PRESIDENT NISBET: The question is on the Donnelly amendment.

SECRETARY CHASE: Miss Donnelly has revised the amendment so that it reads:

1. Amend page 1, line 3, [section a] after "or" by inserting "upon the approval by a majority of the voters voting thereon of the county involved".

PRESIDENT NISBET: Mr. Ford.

MR. FORD: Mr. President, I should like to support Miss Donnelly for the same reason that I supported Mr. Radka a few moments ago. I think that the reasons are the same and they are sound. Obviously the opponents thought so too, because they have met the Donnelly amendment by first criticizing the reasoning that caused us to adopt the Radka amendment.

What you are saying here, in effect, is that at some time when the legislature feels that it might be more economical

to do something, that they can combine the courts. We in our county are very much interested in keeping the probate court separate and apart from the other courts. I would call Mr. Habermehl's attention to the fact, if he believes that all that is involved here is the possibility of an enabling act, that we have in Committee Proposal 96 provided that the legislature shall set up a system of inferior courts which, in effect, is a county court system for the inferior court jurisdiction. And what we would be doing when we combine 96 with this one is make it possible to throw into the pot of the county court system the probate court too, so we will no longer have a 5 tier system. We would then have a system consisting of a supreme court, an intermediate court, a circuit court and everything else. And the "everything else" would be the fourth tier. Now, this can happen. It can happen very readily. Not because the legislature would sit down and deliberately concede this to be a good scheme, but from time to time for reasons of economy or something else that they might want to do to alleviate a particular situation in a particular county, they might have to pass an act which in its ultimate effect would do damage to a well established and well functioning system such as we had in most of the counties of the state. I think it is not asking too much for the people of my county as well as the people of every other county of the state to be able to reject the concept of their probate court being lumped together with the municipal court and the others.

For example, when applying for relief in the form of additional probate judges, the creation of additional judgeships, isn't it much easier for the legislature to answer by simply saying: instead of giving you more probate judges to handle this additional work, we will simply transfer to the justice of the peace and the municipal court and the common pleas court and the recorders court some of the functions previously carried on by the probate court and will in this way, combine them and you won't need the additional judges? I submit that the people of the county ought to, in the last analysis, have the right to reject such a scheme.

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President, I would urge the defeat of the amendment for the reasons put forth by Mr. Everett and also by Mr. Habermehl. Don't forget that all of the jurisdiction given in all matters outside of what we have voted here for juveniles is given to the probate court and every other court by act of the legislature; except the original grant, which is given to the circuit court. All jurisdiction in the probate court, except juveniles, is statutory; it could be removed, could be changed, could be transferred wherever the legislature should provide. I would urge the rejection of the amendment and that we proceed.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, I too would like to oppose this amendment. I would like particularly to address myself to the argument that this is the same situation as with regard to the districting of the probate court. Now, I have seen some voting on that particular provision, being a member of the committee and not wishing to vote against it and still believing that there was merit in the Radka amendment. But I feel that while there is merit in that position, that this is a different situation. Delegate Radka has properly pointed out that in combining several counties, this was of concern to the people of both counties in joining together their judicial business; a broad policy matter of whether or not you would have a court within the county or a court in a district. But I should like to suggest that the particular question involved here is not that broad application. The way this would come about, more than likely, would be in the form of an enabling act of the legislature. Whether or not it would be most advisable to submit this to a general election in that county, or to the board of supervisors, or however the legislature might feel that it would be best submitted, we should leave it to the discretion of the legislature. I just draw attention to that because I feel that this is a different proposition than the Radka amendment, that the same argument for submitting to the people does not necessarily apply. I fail to understand why this particular provision is of such concern to delegates from the large counties where, more than likely, there would never be any possibility in my mind that the legislature would make it applicable. I don't see how Delegate Ford or Delegate Donnelly feel that it is of particular concern to their area. On the other hand, I can understand why Delegate Habermehl feels it is of concern to his area, because it is in his area where this is most likely to come about.

In the interest of the greatest flexibility in the legislature in handling this problem and in view of the technical decisions that must be made in combining jurisdiction, I suggest that it might possibly be better submitted to the board of supervisors, the judicial committee, rather than to a general election. The electors might be confused if they had to decide on the question of combining jurisdiction. The whole subject would be very confusing if we even argued about it here today on the floor. So I won't do it. I urge that you vote no.

PRESIDENT NISBET: The Chair recognizes Miss Donnelly. May we have better order.

MISS DONNELLY: I would like to recall to the memory of those who were in the committee of the whole some months ago, when they say they want to support the committee report, that this was not the judicial committee's report. The judicial committee's report, based on all of the testimony and evidence, the problems that we had in front of us at that time, recommended that it be in counties of less than 25,000. At that time, it was the opinion of the committee that to do such a combination vertically in a large county would create fantastic havoc. The counties smaller than the 25,000 were most disturbed at the thought that they would be combined. Therefore, inasmuch as the large counties don't want this combination downwards and the smaller counties don't want it downwards, because of the vote of the committee of the whole it might be very valid and important for each citizen who is concerned with this issue, when it happens in his county, to be allowed to be heard on the subject matter.

To have this insertion, with the provision that it is up to the individual voters who will be affected, to me seems highly reasonable; particularly in view of the fact you thought it was reasonable, in directing the combination of the probate court, that at least the problems would be the same, the job would be same, the people that come before us would be the same, this was important to come to the people. Now we find that the job will not be the same, the problems will not be the same, and the issues to be decided by this member sitting on the bench at that time will be entirely varied. This is going to throw into the hands of the probate judge all the problems of the municipal court, the JP court, the circuit court commissioner or anything else that you can conceive of. It would seem to me that it would be very important for the counties that would have this happen to them to have the right to be heard on the subject. I therefore suggest that defeating this amendment does not indicate support of the original judicial committee report. The original judicial committee report said, less than 25,000. It did not put this in for the entire state. They didn't think it was advisable for the entire state. Now it is important, I think, since the language is in, that we at least allow the individuals who will be affected to vote on it.

PRESIDENT NISBET: The question is on the Donnelly amendment as revised. Those in favor will say aye. Those opposed will say no.

MISS DONNELLY: Yeas and nays.

PRESIDENT NISBET: Miss Donnelly asks for the yeas and nays. Is the demand seconded?

SECRETARY CHASE: Fourteen.

PRESIDENT NISBET: Not a sufficient number up. Do you demand a division, Miss Donnelly? Miss Donnelly demands a division. Sufficient number up. Those in favor of the Donnelly amendment, as revised, will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the totals.

SECRETARY CHASE: On the amendment offered by Miss Donnelly, the yeas are 47; the nays are 70.

PRESIDENT NISBET: The amendment is not adopted. The question now is on Committee Proposal 94, as amended. Will you clear the board, please. Will the delegates please clear the board.

MR. FORD: Mr. President, are we in order to talk on the entire proposal now that the amendment is adopted?

PRESIDENT NISBET: You may.

MR. FORD: I'd simply like to urge a no vote on the proposal as amended.

PRESIDENT NISBET: Those in favor of Committee Proposal 94, as amended, 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—93

Andrus, Miss	Habermehl	Pugsley
Anspach	Haskill	Radka
Batchelor	Hatch	Rajkovich
Beaman	Heideman	Richards, J. B.
Bentley	Higgs	Richards, L. W.
Blandford	Howes	Romney
Bonisteel	Hoxie	Rood
Boothby	Hubbs	Rush
Bradley	Iverson	Sablich
Brake	Judd, Mrs.	Seyferth
Brown, G. E.	Karn	Shackleton
Butler, Mrs.	Kirk, S.	Shaffer
Conklin, Mrs.	Knirk, B.	Shanahan
Cudlip	Koeze, Mrs.	Sharpe
Cushman, Mrs.	Kuhn	Sleder
Danhof	Leibrand	Spitler
Dehnke	Leppien	Stafseth
Dell	Martin	Staiger
DeVries	McAllister	Stamm
Doty, Donald	McCauley	Sterrett
Durst	McGowan, Miss	Stevens
Elliott, A. G.	McLogan	Thomson
Erickson	Millard	Turner
Everett	Mosier	Tweedie
Farnsworth	Nisbet	Upton
Figy	Page	Van Dusen
Finch	Perras	Wanger
Follo	Plank	White
Gadola	Pollock	Wood
Goebel	Powell	Woolfenden
Gover	Prettie	Youngblood

Nays—30

Austin	Elliott, Mrs. Daisy	Liberato
Baginski	Faxon	Madar
Balcer	Ford	Mahinske
Barthwell	Garvin	Marshall
Binkowski	Hart, Miss	Ostrow
Bledsoe	Hodges	Snyder
Brown, T. S.	Kelsey	Stopczynski
Buback	Krolikowski	Walker
Donnelly, Miss	Lawrence	Wilkowski
Downs	Lesinski	Young

SECRETARY CHASE: On the passage of Committee Proposal 94, as amended, the yeas are 93; the nays are 30.

PRESIDENT NISBET: **Committee Proposal 94, as amended, is passed and referred to the committee on style and drafting.**

Following is Committee Proposal 94 as amended and rereferred to the committee on style and drafting:

Sec. a. In each county organized for judicial purposes, there shall be a probate court. The legislature may combine one or more counties into probate districts upon the approval by a majority of the voters of each county voting separately on the question, or combine the office of probate judge with any judicial office of limited jurisdiction in any county with supplemental salary as provided by law. The jurisdiction, powers and duties of the probate courts and of the judges thereof shall be prescribed by law. They shall also have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. b. Judges of probate shall be nominated and elected at nonpartisan elections in the counties or the probate district in which they reside and shall hold office for a period of 6 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 all terms will not expire at the same time.

The Chair recognizes Mr. Woolfenden.

MR. WOOLFENDEN: Mr. President, at this time, I'd like to make a preferential motion under rule 53. I move for reconsideration of the vote on **Committee Proposal 52** as amended.

For vote on passage of Committee Proposal 52, see above, page 2666.

If I am in order, I'd like to speak to the motion.

PRESIDENT NISBET: You may proceed, Mr. Woolfenden.

MR. WOOLFENDEN: Mr. President and members of the convention, late Thursday afternoon, when there were only 108 delegates in the chamber — some of them having had to leave for unavoidable reasons — Committee Proposal 52, after debate and amendment, was not passed, by a vote of 62 to 46. A decisive majority of the delegates were present. However, because of the fact that 1/4 of the delegates were not present and were not able to record their votes on this proposal, I ask that the vote on the passage of Committee Proposal 52 now be reconsidered.

PRESIDENT NISBET: The Chair recognizes Mr. Sterrett.

MR. STERRETT: Mr. President and delegates, I'd like to support Mr. Woolfenden's motion for reconsideration of Committee Proposal 52. I'd also like to point out that there was a vote in favor of this committee proposal, as Mr. Woolfenden mentioned, 62 to 46; and, originally, when the major issue, the first part of the amendment, was being voted upon, the vote was 55 to 50. So during the debate it was evidently proved to a number of people that this was worthy of consideration and of an aye vote because of the ultimate increased vote for the committee proposal. Therefore, I request you reconsider.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, this matter was thoroughly debated on Thursday afternoon. It was the recommendation of the committee on finance and taxation that the proposal not pass, it did not pass, and was not adopted. And I urge you to vote no on Mr. Woolfenden's motion to reconsider.

PRESIDENT NISBET: The Chair recognizes Mr. Downs.

MR. DOWNS: Mr. President, I wish to speak in favor of the reconsideration motion. This was a very technical matter and I think there are some questions some of the delegates may have that warrant further consideration.

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, I was one of those who had to leave Thursday afternoon before the vote could be taken. I am happy to rise in support of this motion at this time.

I'd like to make a parliamentary inquiry. Am I correct that the first vote will be on whether or not to reconsider? And then, if that is adopted, the vote would be on Committee Proposal 52 as amended?

PRESIDENT NISBET: That is correct. The Chair recognizes Garry Brown.

MR. G. E. BROWN: Mr. President, another point of information, if I may, please: in pursuance of and in regard to the same question Mr. Bentley asked, if we vote to reconsider, do we then reconsider the amendments that were presented to the proposal, or do we merely reconsider the vote by which the proposal passed or failed?

PRESIDENT NISBET: We are reconsidering the vote by which the proposal did not pass. If the vote to reconsider

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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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

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Article II
Elections

Sec. 1. Every citizen of the United States who has attained the age of 21 years, who has resided in this state [6] SIX months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

Sec. 2. The legislature may by law exclude persons from voting because of mental incompetence[,] or commitment to a jail or penal institution.

Sec. 3. For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than [6] SIX months and may waive residence requirements [of] FOR FORMER citizens of this state who have

removed [t]herefrom. The legislature [may provide the manner of voting by such persons but] shall not permit voting by any [such] person who meets the voting residence requirements of the state to which he has removed.

Sec. 4. The legislature shall enact laws to regulate the time, place [,] and manner of all nominations and elections, except as otherwise provided in this constitution or in the constitution and laws of the United States. The legislature shall enact laws to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of [persons who are] candidates for the same office WHO [and] have the same or similar surnames.

Sec. 5. Except for special elections to fill vacancies, OR AS OTHERWISE PROVIDED IN THIS CONSTITUTION, all elections for national, state, county and township offices shall be held on the first Tuesday after the first Monday in November in each even-numbered year[,] or on such other date as MEMBERS OF THE CONGRESS OF THE UNITED STATES ARE REGULARLY ELECTED [may hereafter be provided by the Constitution of the United States or by congress for election of members thereof].

Sec. 6. Whenever any question is REQUIRED TO BE submitted BY A POLITICAL SUBDIVISION to [a vote of] the electors which involves THE INCREASE OF ANY AD VALOREM TAX RATE LIMITATION FOR A PERIOD OF MORE THAN FIVE YEARS, the direct expenditure of public money, OR the issue of bonds, [or the increase of any ad valorem tax rate for a period of more than 5 years,] only [persons having the qualifications of] electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or the lawful husbands or wives of such persons shall be entitled to vote thereon. All ELECTORS IN THE DISTRICT OR TERRITORY AFFECTED [persons having the qualifications of electors] may vote on all other questions. [involving an increase in any ad valorem tax rate and on borrowing by this state.]

Sec. 7. A board of state canvassers [consisting] of [4] FOUR members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers. A majority of any board of canvassers shall not be composed of members of the same political party.

Sec. 8. Laws shall be enacted to provide for the recall of all elective officers except judges of courts of record upon petition of electors equal in number to 25 percent of the number of persons voting [at] IN the last preceding election for the office of governor in the electoral district of the officer sought to be recalled. THE SUFFICIENCY OF any statement of reasons or grounds procedurally required shall be [deemed to pose] a political rather than a judicial question.

Sec. 9. The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to reject laws enacted by the legislature, called the referendum. The power of initiative extends only to laws which the legislature may enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds AND MUST BE INVOKED IN THE MANNER PRESCRIBED BY LAW WITHIN 90 DAYS FOLLOWING THE FINAL ADJOURNMENT OF THE LEGISLATIVE SESSION AT WHICH THE LAW WAS ENACTED. To invoke the initiative or referendum, petitions signed by a number of registered electors, not less than [8] EIGHT percent for initiative and [5] FIVE percent for referendum of the total vote cast for all candidates for governor at the last preceding general election AT WHICH A GOVERNOR WAS ELECTED shall be required.

NO LAW AS TO WHICH THE POWER OF REFERENDUM PROPERLY HAS BEEN INVOKED SHALL BE EFFECTIVE THEREAFTER UNLESS APPROVED BY A MAJORITY OF THE ELECTORS VOTING THEREON AT THE NEXT GENERAL ELECTION.

[The] ANY law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If the law so [petitioned for] PROPOSED is not enacted by the legislature within the 40 days, the state officer authorized by law shall submit such proposed law to the people for approval or rejection at the next [ensuing] general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by such state officer to the electors for approval or rejection at the next [ensuing] general election.

Any [act] LAW submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No [act] LAW

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

initiated or adopted by the people shall be subject to the veto power of the governor, and no [act] LAW adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors or [3/4] THREE-FOURTHS of the members elected to and serving in each house of the legislature. [Acts] LAWS adopted by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. If [2] TWO or more measures approved by the electors at the same election conflict, THAT [the measure] receiving the highest affirmative vote shall prevail.

The legislature shall implement the provisions of this section.

ARTICLE III
GENERAL GOVERNMENT

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2.	Division of Powers	21a
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Article III
General Government

Sec. 1. The seat of government shall be at Lansing.

Sec. 2. The powers of government are divided into [3] THREE branches: legislative, executive[,] and judicial. No person [belonging to] EXERCISING POWERS OF one branch shall exercise powers properly belonging to another branch[,] except [in] AS [cases] expressly provided in this constitution.

Sec. 3. There shall be a great seal of the State of Michigan and its use shall be [prescribed] PROVIDED by law.

Sec. 4. The militia shall be organized, equipped and disciplined as provided by law.

Sec. 5. Subject to provisions of general law, this state or any political subdivision, ANY GOVERNMENTAL AUTHORITY or any combination thereof may enter into agreements[,] for the performance, financing or execution of their respective [governmental] functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution.

Any other provision of this constitution [to the contrary] notwithstanding, an officer or employee of the state or OF any [municipal corporation or other subdivision or agency] SUCH UNIT OF GOVERNMENT OR SUBDIVISION OR AGENCY thereof may serve on or with any governmental body ESTABLISHED FOR THE PURPOSES SET FORTH IN THIS SECTION [as a representative of the state or any municipal corporation or other subdivision or agency thereof, or for the purpose of participating or assisting in the consideration or performance of joint or cooperative undertakings or for the study of governmental problems,] and shall not be required to relinquish his office or employment by reason of such service. The legislature [by statute] may impose such restrictions, limitations or conditions on such service as it may deem appropriate.

Sec. 6. The state shall not be a party to, nor be financially interested in, any work of internal improvement, nor engage in carrying on any such work, except for public internal improvements [authorized] PROVIDED by law.

Sec. 7. [All law not repugnant to this constitution,] THE COMMON LAW AND THE STATUTE LAWS NOW IN FORCE, NOT REPUGNANT TO THIS CONSTITUTION, shall remain in force until [changed, repealed or in the case of statutes they have expired because of limitations contained therein] THEY EXPIRE BY THEIR OWN LIMITATIONS, OR ARE CHANGED, AMENDED OR REPEALED.

Sec. 8. Either house of the legislature or the governor may request the opinion of the supreme court [up]on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date.

ARTICLE IV
LEGISLATIVE BRANCH

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3.	Representatives, Number, Term, Districts	80b
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11.	Legislators, privileges	33a
12.	Legislators, compensation	28a
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14.	Senate and House, quorums	34a
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20. Legislature, open public meetings ... 103a
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24. Laws, object and title
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26. Bills, requirements for passage
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39. Continuity of government 122a
40. Liquor Control Commission 27a
41. Lotteries 100a
42. Ports and port districts 87a
43. Banking and trust company laws 5a
44. Jury in civil cases 99a
45. Indeterminate sentences 106a
46. Prohibition against death penalty 20a
47. Chaplains 111a
48. Resolution of public disputes 109a
49. Regulation of employment 110a
50. Atomic energy 127a
51. Public Health 126a
52. Natural resources 125a
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 percentage of the state's land area computed to the nearest [1/100] ONE-ONE HUNDREDTH of one percent.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties [are] IS entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.

(2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment FACTORS of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there [shall be] IS a failure to comply with the above standards.

(3) Counties entitled to [2] TWO or more senate districts shall be [further sub]divided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

Sec. 3. The house of representatives shall consist of 110 members elected for [2] TWO-year terms from single member districts apportioned on a basis of population as [hereinafter] provided IN THIS ARTICLE. The districts shall consist of compact and convenient territory contiguous by land.

Each county which has a population of not less than [7/10] SEVEN-TENTHS of one percent of the population of the state shall constitute a separate representative area. Each county having less than [7/10] SEVEN-TENTHS of one percent of the population of the state shall be combined with another county or counties to form a representative area of not less than [7/10] SEVEN-

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

TENTHS of one percent of the population of the state. Any county which is isolated under the initial allocation as [herein] provided IN THIS SECTION shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one representative.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to [2] TWO or more representatives shall be divided into single member representative districts as follows:

(1) The population of [each] SUCH districtS shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the representative area by the number of representatives to which it is entitled.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population adhering to county lines.

Sec. 4. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial district in the city with which it is combined upon the effective date of the annexation or merger[,]. THE DISTRICTS WITH WHICH THE TERRITORY SHALL BE COMBINED SHALL BE [as] determined by ordinance of the city certified to the secretary of state.

[No legislator shall be deemed to have vacated his office by virtue of the above section.] NO SUCH CHANGE IN THE BOUNDARIES OF A REPRESENTATIVE OR SENATORIAL DISTRICT SHALL HAVE THE EFFECT OF REMOVING A LEGISLATOR FROM OFFICE DURING HIS TERM.

Sec. 5. ISLAND AREAS ARE CONSIDERED TO BE CONTIGUOUS BY LAND TO THE COUNTY OF WHICH THEY ARE A PART.

Sec. 6. A commission on legislative apportionment is hereby established consisting of [8] EIGHT persons, [4] FOUR of whom shall be selected by the state organizations of each of the [2] TWO political parties whose candidates for governor received the highest vote at the last general election AT WHICH A GOVERNOR WAS ELECTED preceding each apportionment. If a candidate for governor of a third political party has received at such election more than 25 percent of such gubernatorial vote, the commission shall consist of 12 members, [4] FOUR of whom shall be selected by the state organization of the third political party. One member of the commission shall be selected by each political party organization from each of the following [4] FOUR regions: (1) The upper peninsula; (2) The northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) Southwestern Michigan, those counties south of region (2) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) Southeastern Michigan, the remaining counties of the state.

No officers or employees of the federal, state or local governments, excepting notaries public and members of the armed forces reserve, shall be eligible for membership on the commission. Members of the commission shall not be eligible for election to the legislature until [2] TWO years after the apportionment [plan] in which they participated becomes effective.

The commission shall be appointed immediately after the adoption of this constitution and whenever [Re]apportionment or districting OF THE LEGISLATURE is required by the provisions of this constitution. Members of the commission shall hold office until each apportionment or districting plan becomes effective. Vacancies shall be filled in the same manner as for original appointment.

The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman, shall make its own rules of procedure, and shall receive compensation provided by law. The legislature shall appropriate funds [necessary] to enable the commission to carry out its activities.

Within 30 days after the adoption of this constitution, and after the official total population count of each federal decennial census of the state and its political subdivisions is available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to DISTRICT AND apportion[, and district,] the senate and house of representatives according to the provisions of this constitution. All final decisions shall require the concurrence of a majority of [all of] the members of the commission. The commission shall hold public hearings as may be provided by law.

Each final apportionment and districting plan shall be published as provided by law within 30 days from the date of its adoption and shall become law 60 days after publication. The secretary of state shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of each plan.

If a majority of the commission cannot agree on a plan, each member of the commission, individually or jointly with other members, may submit a proposed plan to the supreme court. The supreme court shall determine which plan complies most accurately with the constitutional requirements and shall direct that it be adopted BY THE COMMISSION and published as provided in this section.

Upon the application of any [qualified] elector filed not later than 60 days after final publication of the plan, the supreme court, in the exercise of original jurisdiction, shall direct the secretary of state or the apportionment commission to perform their duties, may review any final plan adopted by the commission, and shall make orders amending such plan if it fails to comply with the requirements of this constitution.

Sec. 7. Each senator and representative MUST [shall] be a citizen of the United States, at least 21 years of age, and AN [a qualified] elector of the district he represents[,] . [and] The removal of his domicile from the district shall be deemed a vacation of the office. No person who has been convicted of subversion or who has within the preceding 20 years been convicted of a felony involving a breach of public trust shall be eligible for either house of the legislature.

Sec. 8. No person holding any office under the United States or this state or a political subdivision thereof, except notaries public and officers of the armed forces reserve, may be a member of either house of the legislature.

Sec. 9. No person elected TO [a member of] the legislature shall receive any civil appointment within this state from the governor, except notaries public, [from the governor and senate,] from the legislature, or from any other state authority, during the term for which he is elected.

Sec. 10. No member of the legislature nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest. The legislature shall further implement this provision by appropriate legislation.

Sec. 11. Senators and representatives shall be privileged from civil arrest and civil process during sessions of the legislature and for [5] FIVE days next before the commencement and after the termination thereof. They shall not be questioned in any other place for any speech in either house.

Sec. 12. The annual salary of the members of the legislature shall be not less than $9,000[.], AS PROVIDED BY LAW. Members of the legislature shall be entitled to REIMBURSEMENT FOR [2] TWO round trips home EACH [per] month while the legislature is in session, and expenses in connection with the work of interim committees. [No] ChangeS in salary or expenses shall beCOME effective [during the term of office for which the legislature making the change was elected] ONLY WHEN LEGISLATORS COMMENCE THEIR TERM OF OFFICE AFTER A GENERAL ELECTION except and only to the extent of a general salary reduction in all other branches of STATE government.

No person serving in the legislature shall receive at any time for his services as a member of the legislature any additional fees, compensation or financial benefits from the state or its political subdivisions. This section shall not be construed to [deny] AFFECT retirement benefits [to those] OF legislators [eligible to receive] WHICH HAVE [these benefits at] ACCRUED PRIOR TO the [time] EFFECTIVE DATE OF this constitution [becomes effective].

Sec. 13. The legislature shall meet at the seat of government on the second Wednesday in January of each year at [12:00] TWELVE o'clock noon. Each regular session shall adjourn without day, on a day determined by concurrent resolution, at TWELVE [12:00] o'clock noon. Any business, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over WITH THE SAME STATUS to the next regular session.

Sec. 14. A majority of the members elected to and serving in each house shall constitute a quorum to do business. A smaller number in each house may adjourn from day to day, and may compel the attendance of absent members in the manner and with penalties as each house may prescribe.

Sec. 15. There shall be a bi-partisan legislative council consisting of legislators appointed in the manner prescribed by law. The legislature shall appropriate [adequate] funds for the council's operations and provide for its staff which shall maintain bill drafting, research and other services for the members of the legislature. The council shall PERIODICALLY [from time to time] examine and recommend to the legislature revision of the various laws of the state.

Sec. 16. Each house, except as otherwise provided in this constitution, shall choose its own officers and determine the rules of its proceedings, but shall not adopt any rule that will prevent a majority of the members elected thereto and serving therein from discharging a committee

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

from the further consideration of any measure. Each house shall BE THE SOLE judge of the qualifications, elections and returns of its members, and may, with the concurrence of TWO-THIRDS [2/3] of all the members elected thereto and serving therein, expel a member. The reasons for such expulsion shall be entered IN [upon] the journal, with the [yeas and nays] VOTES AND NAMES of the members voting upon the question. No member shall be expelled a second time for the same cause.

Sec. 17. Each house of the legislature may establish the committees necessary for the efficient conduct of its business and the legislature may create joint committees. Each committee shall [keep a recorded] BY roll call vote RECORD THE VOTE AND NAME [by yeas and nays] of all action on bills and resolutions taken in the committee. Such vote shall be available FOR [to] public inspection. Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in the journal in advance of the hearing.

Sec. 18. Each house shall keep a journal of its proceedings, and publish the same unless security otherwise requires. The [yeas and nays] RECORD OF THE VOTE AND NAME of the members of either house VOTING on any question shall be entered in the journal at the request of [1/5] ONE-FIFTH of the members present. Any member of either house may dissent from and protest against any act, proceeding or resolution which he deems injurious to any person or the public, and have the reason for his dissent entered in the journal.

Sec. 19. All elections in either house or in joint convention and all votes on appointments [recommended to the senate for confirmation] SUBMITTED TO THE SENATE FOR ADVICE AND CONSENT shall be [taken by yeas and nays and] published BY VOTE AND NAME in the journal.

Sec. 20. The doors of each house shall be open unless the public security otherwise requires.

Sec. 21. Neither house shall, without the consent of the other, adjourn for more than [3] TWO INTERVENING CALENDAR days, nor to any place other than where the legislature may then be in session.

Sec. 22. All legislation [by the legislature] shall be by bill and may originate in either house.

Sec. 23. The style of the laws shall be: The People of the State of Michigan enact.

Sec. 24. No law shall embrace more than one object, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title.

Sec. 25. No law shall be revised, altered or amended by reference to its title only. The section or sections of the act altered or amended shall be re-enacted and published at length.

Sec. 26. No bill shall be passed or become a law at any regular session of the legislature until it has been printed or reproduced and in the possession of each house for at least [5] FIVE days. Every bill shall be read THREE [3] times in each house before the final passage thereof. No bill shall become a law without the concurrence of a majority of [all] the members elected to and serving in each house. On the final passage of [all] bills, the voteS AND NAMES OF THE MEMBERS VOTING THEREON shall be [by yeas and nays and] entered in the journal.

Sec. 27. No act shall take effect [or be in force] until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a [2/3] TWO-THIRDS vote of the members elected to and serving in each house.

Sec. 28. When the legislature is convened on extraordinary occasions in special session no bill shall be passed on any subjects other than those expressly stated in the governor's proclamation or submitted by special message.

Sec. 29. The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act shall take effect until approved by TWO-THIRDS [2/3] of the members elected to and serving in each house [of the legislature] and by a majority of the electors voting thereon in the district [to be] affected. Any act repealing local or special acts [in effect as of the effective date of this constitution] shall require only a majority of the members elected to and serving in each house and shall not require submission to the electors of such district.

Sec. 30. The assent of TWO-THIRDS [2/3] of the members elected to and serving in each house of the legislature shall be required for the appropriation of public money or property for local or private purposes.

Sec. 31. The general appropriation bills for the succeeding fiscal period covering items set forth in the budget shall be passed or rejected in either house of the legislature before that house passes any appropriation bill for items not in the budget except bills supplementing appropriations for the current FISCAL year's operation. Any bill requiring an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as passed by the legislature shall contain an itemized statement of estimated revenue by major source in each operating fund for the ensuing fiscal period, the total of which shall not be less than the total of all appropriations made from each fund in the gen-

eral appropriation bills as passed.

Sec. 32. Every law which imposes, continues or revives a tax shall distinctly state the tax.

Sec. 33. Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he does not approve, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated. That house shall enter such objections in full in its journal and reconsider the bill. If TWO-THIRDS [2/3] of the members elected TO and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by TWO-THIRDS [2/3] of the members elected TO and serving in that house. The vote of each house shall be [determined by the yeas and nays, and the names of the members voting for and against the bill shall be] entered in the journal WITH THE VOTES AND NAMES OF THE MEMBERS VOTING THEREON. If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it.

Sec. 34. Any bill passed by the legislature and approved by the governor, except A BILL appropriatING MONEY [ion bills], may [be referred by the legislature to the qualified electors. No bill so referred shall] PROVIDE THAT IT WILL NOT become [a] law unless approved by a majority of the electors voting thereon.

Sec. 35. All laws enacted at any session of the legislature shall be published in book form within 60 days after final adjournment of the session, and shall be distributed in the manner provided by law. The [speedy] PROMPT publication of judicial decisions shall be provided by law. All laws and judicial decisions shall be free for publication by any person.

Sec. 36. No general revision of the laws shall [hereafter] be made. The legislature may provide for a compilation of the laws in force, arranged without alteration, under appropriate heads and titles.

Sec. 37. The legislature may by concurrent resolution empower a joint committee of the legislature acting [in the interim] between sessions to suspend until the end of the next regular legislative session any rule or regulation [promulgated by] OF an administrative agency PROMULGATED when the legislature is not in regular session.

Sec. 38. The legislature may provide by law the cases in which any office shall be [deemed] vacant and the manner of filling vacancies[,] where no provision is made in this constitution.

Sec. 39. In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state CAUSED by enemy attack on the United States, the legislature MAY [shall have the power to such extent as it deems advisable (1) to] provide by [legislative enactment] LAW for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices[,]; and ENACT [(2) to adopt by legislative enactment such] other [legislation] LAWS [as may be] necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred by this section, elections shall always be called as soon as possible to fill any [elective] vacancies in [any] ELECTIVE officeS temporarily occupied by operation of any legislation enacted pursuant to the provisions of this section.

Sec. 40. The legislature may by law establish a liquor control commission[,] which, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof. [and] THE LEGISLATURE may provide for an excise tax on such sales. Neither the legislature nor the commission may authorize the manufacture or sale of alcoholic beverages in any county in which a majority of the electors voting thereon shall prohibit the same.

Sec. 41. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

Sec. 42. The legislature may provide for the incorporation of ports and port districts, and confer power and authority upon them to engage in work of internal improvements in connection therewith.

Sec. 43. No general law providing for the incorporation of trust companies or corporations for banking purposes, or regulating the business thereof, shall be enacted, amended or repealed except by a vote of [2/3] TWO-THIRDS of the members elected to and serving in each house [of the legislature].

Sec. 44. The legislature may authorize a trial by a jury of less than 12 jurors in civil cases.

Sec. 45. The legislature may provide for indeterminate sentences as [a] punishment for crime and for the detention and release of per-

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

sons imprisoned or detained [on] UNDER such sentences.

Sec. 46. No law shall be enacted providing for the penalty of death.

Sec. 47. The legislature may authorize the employment of chaplains in state institutions of DETENTION OR confinement.

Sec. 48. The legislature may enact laws providing for the resolution of disputes [in] CONCERNING public [employment] EMPLOYEES, except THOSE IN THE state classified civil service.

Sec. 49. The legislature may enact laws relative to the hours and conditions of employment.

Sec. 50. The legislature may provide safety measures and regulate the use of atomic energy and forms of energy developed in the future, having in view the general welfare of the people of this state.

Sec. 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

Sec. 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety[,] and general welfare of the people. The legislature shall provide for the protection of the air, water[,] and other natural resources of the state from pollution, impairment and destruction.

Sec. 53. The legislature by a majority vote of the members elected to and serving in each house, shall appoint an auditor general, who shall be [an administrator and] a certified public accountant [duly] licensed to practice in this state, to serve for a term of [8] EIGHT years. He shall be ineligible for appointment or election to any other [paid] public office in this state FROM WHICH COMPENSATION IS DERIVED while serving as auditor general and for [2] TWO years following the termination of his service. He may be removed for cause at any time by a [2/3] TWO-THIRDS vote of the members elected to and serving in each house [of the legislature]. The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

The auditor general upon direction by the legislature may employ independent accounting firms or legal counsel and may make investigations pertinent to the conduct of audits. He shall report annually to the legislature and to the governor and at such other times as he deems necessary or as required by the legislature. He shall be assigned no duties other than those [herein] specified IN THIS SECTION.

Nothing in this section shall be construed in any way to infringe the responsibility and constitutional authority of the governing boards of the [universities and colleges] INSTITUTIONS OF HIGHER EDUCATION to be solely responsible for the control and direction of all expenditures from the institutions' funds.

[The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.]

The auditor general, his deputy and one other member of his staff shall be exempt from classified civil service. All other members of his staff shall have classified civil service status.

ARTICLE V

EXECUTIVE BRANCH

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Article V
Executive Branch

Sec. 1. The executive power is vested in the governor.

Sec. 2. All executive and administrative offices, agencies and instrumentalities of the EXECUTIVE BRANCH OF state government and their respective functions, powers and duties, except for the office of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes.

Subsequent to the initial allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders AND SUBMITTED TO THE LEGISLATURE. THEREAFTER the legislature shall have 60 CALENDAR days of a regular session, or a full session if of shorter duration, to disapprove [these] EACH executive order[s]. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, [these] EACH order[s] shall become effective at a date thereafter to be designated by the governor.

Sec. 3. The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer and an attorney general. When a single executive [other than an elective official,] is the head of a principal department, UNLESS ELECTED OR APPOINTED AS OTHERWISE PROVIDED IN THIS CONSTITUTION, he shall be [nominated and,] APPOINTED BY THE GOVERNOR by and with the advice and consent of the senate[, appointed by the governor] and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, [the members thereof,] unless elected or appointed as otherwise provided in this constitution, THE MEMBERS THEREOF shall be [nominated and,] APPOINTED BY THE GOVERNOR by and with the advice and consent of the senate[, appointed by the governor]. The term of office and procedure for removal of such members shall be as prescribed in this constitution or by law.

Terms of office of any board or commission created or enlarged after [adoption] THE EFFECTIVE DATE of this constitution shall not exceed [4] FOUR years except as otherwise authorized in this constitution. The terms of office of existing boards and commissions[,] which are [greater] LONGER than [4] FOUR years shall not be further extended except as provided in this constitution.

Sec. 4. At no time shall an examining or licensing board of a profession INCLUDE [be composed of] less than a majority of members of that profession. Temporary commissions or agencies for special purposes with a life of no more than [2] TWO years may be established by law and need not be allocated within a principal department.

Sec. 5. Appointment by and with the advice and consent of the senate when used in this constitution or [in statutes] LAWS in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 [legislative] SESSION days after the date of such appointment. [If the] ANY appointment [is] not disapproved within such period [of time the appointment] shall stand confirmed.

Sec. 6. [When the senate is not in session, the governor shall fill a vacancy] VACANCIES in any office, appointment to which requires advice and consent of the senate, [by appointment which may be disapproved by the senate in the manner provided for other] SHALL BE FILLED BY THE GOVERNOR BY AND WITH THE ADVICE AND CONSENT OF THE SENATE. [appointments requiring such advice and consent.] A person [who] WHOSE APPOINTMENT has been disapproved by the senate shall not be eligible for [another] AN interim appointment to the same office.

Sec. 7. Each principal department shall be under the supervision of the governor[,] unless otherwise provided by this constitution. The governor shall take care that the laws be faithfully executed. He shall transact all necessary business with the officers of government and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may initiate court proceedings in the name of the state to enforce compliance with any constitutional or legislative mandate, or to restrain violations of any constitutional or legislative power, duty[,] or right by any officer, department[,] or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize court proceedings against the legislature.

Sec. 8. Single executives heading principal departments and the chief executive officers of

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principal departments headed by boards or commissions shall keep their offices at the seat of government except as otherwise provided by law, superintend them in person and perform duties prescribed by law.

Sec. 9. The governor shall have power and it shall be his duty[,] to inquire into the condition and administration of any public office and the acts of any public officer, elective or appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or FOR any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and report the [causes of] REASONS FOR such removal or suspension to the legislature. [if in session or otherwise at its next session.]

Sec. 10. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an appointed or elected officer, other than a [judicial] LEGISLATIVE OR JUDICIAL officer, until he is REINSTATED [acquitted] or[, if convicted,] until the vacancy is filled in the manner prescribed by law or this constitution [for such office].

Sec. 11. The governor shall be commander-in-chief of the armed forces and may call them out to execute the laws, suppress insurrection and repel invasion.

Sec. 12. The governor shall issue writs of election to fill vacancies in the senate or house of representatives. Any such election shall be held in a manner prescribed by law.

Sec. 13. The governor shall have power to grant reprieves, commutations and pardons after convictions for all offenses, except cases of impeachment, upon such conditions and limitations as he may direct, subject to procedures and regulations [provided] PRESCRIBED by law. He shall inform the legislature annually of each reprieve, commutation and pardon granted, stating reasons therefor.

Sec. 14. The governor may convene the legislature on extraordinary occasions.

Sec. 15. The governor may convene the legislature at some other place when the seat of government becomes dangerous from any cause.

Sec. 16. The governor shall communicate by message to the legislature at the beginning of each session and may at other times present to the legislature information as to the affairs of the state and recommend measures he considers necessary or desirable.

Sec. 17. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, for all operating funds, the proposed expenditures and estimated revenue of the state. Proposed expenditures from any fund shall not exceed the estimated revenue thereof. On the same date, the governor shall submit to the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills to provide new or additional revenues to meet proposed expenditures. The amount of any surplus created or deficit incurred in any fund during the last preceding fiscal period shall be entered as an item in the budget and in one of the appropriation bills. The governor may submit amendments to appropriation bills to be offered in either house during consideration of the bill by that house, and shall submit any bills to meet deficiencies in current appropriations.

Sec. 18. The governor [shall have power to] MAY disapprove any distinct item or items APPROPRIATING MONEYS in any appropriation bill. The part or parts approved shall become law, and the item or items disapproved shall be void unless re-passed according to the method prescribed for the passage of other bills over the executive veto.

Sec. 19. No appropriation shall be [deemed] a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures AUTHORIZED BY [of any bodies receiving] appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based. Reductions in expenditures shall be made in accordance with procedures [established] PRESCRIBED by law. The governor['s power to reduce expenditures shall not apply to] MAY NOT REDUCE EXPENDITURES OF the legislative and judicial branches or FROM [to those services for which] funds CONSTITUTIONALLY DEDICATED FOR SPECIFIC PURPOSES. [are mandated by this constitution.]

Sec. 20. The governor, lieutenant governor, secretary of state and attorney general shall be elected FOR FOUR-YEAR TERMS at the general election in each alternate even-numbered year. [They shall serve for terms of 4 years beginning at 12:00 o'clock noon on the first day of January next succeeding their election.]

The lieutenant governor, secretary of state and attorney general shall be nominated by party conventions in a manner prescribed by law. In the general election one vote shall be cast jointly for the candidates for governor and lieutenant governor nominated by the same party.

VACANCIES IN THE OFFICE OF THE SECRETARY OF STATE AND ATTORNEY GENERAL SHALL BE FILLED BY APPOINTMENT BY THE GOVERNOR.

Sec. 21. [No person shall] TO be eligible for the office of governor or lieutenant governor [who shall not have] A PERSON MUST HAVE attained the age of 30 years, and [who shall] have [not] been [4 years next preceding his election] a registered elector in this state FOR FOUR

YEARS NEXT PRECEDING HIS ELECTION.

Sec. 22. The governor, lieutenant governor, secretary of state[, state treasurer] and attorney general shall each receive the compensation [prescribed] PROVIDED by law in full payment for all services performed and expenses incurred during his term of office. Such compensation shall not be changed during the term of office except as otherwise provided in this constitution.

Sec. 23. An executive residence suitably furnished shall be provided at the seat of government for the use of the governor. He shall receive an allowance for its maintenance as provided by law.

Sec. 24. The lieutenant governor shall be president of the senate, but shall have no vote except in case of equal division. He [shall] MAY perform [additional] duties [as] requested of him by the governor[.], BUT NO POWER VESTED IN THE GOVERNOR SHALL BE DELEGATED.

Sec. 25. In case of the conviction of the governor on impeachment, his removal from office, his resignation, or [the] HIS death, [of the governor or governor-elect, the powers and duties of the office shall vest, in the following order of precedence, in the person elected at the last election to the office of] THE lieutenant governor, THE ELECTED secretary of state, THE ELECTED attorney general, and such other persons designated by law[, who] shall IN THAT ORDER be governor [after the commencement of their term] for the [residue] REMAINDER of the governor's term.

IN CASE OF THE DEATH OF THE GOVERNOR-ELECT, THE LIEUTENANT GOVERNOR-ELECT, THE SECRETARY OF STATE-ELECT, THE ATTORNEY GENERAL-ELECT AND SUCH OTHER PERSONS DESIGNATED BY LAW SHALL BECOME GOVERNOR IN THAT ORDER AT THE COMMENCEMENT OF THE GOVERNOR-ELECT'S TERM.

If the governor or the person in line of succession to serve as governor is absent from the state, or suffering under an inability [as determined herein], the powers and duties of the office of governor shall devolve in order of precedence [upon such persons] until the absence or inability giving rise to the DEVOLUTION [devolvement] of powers ceases.

The inability of the governor[, governor-elect] or person[s serving] ACTING as governor shall be determined by a majority of the supreme court on joint request of the president pro tempore of the senate and the speaker of the house of representatives. Such determination shall be final and conclusive. The supreme court shall upon its own initiative determine if and when the inability ceases.

Sec. 26. The legislature shall provide that the salary of any state officer WHILE ACTING AS [performing the duties of] governor [is] SHALL BE equal to that of the governor.

Sec. 27. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as [shall be prescribed] PROVIDED by law.

The state highway commission shall consist of [4] FOUR members, not more than [2] TWO of whom shall be members of the same political party. They shall be appointed by the governor BY AND with the advice and consent of the senate for [4] FOUR-year terms, no [2] TWO of which shall expire in the same year AS PROVIDED BY LAW.

The state highway commission shall appoint AND MAY REMOVE a state highway director, who shall be a competent highway engineer and administrator. He shall be the PRINCIPAL [chief] executive OFFICER of the state highway department and shall be responsible for executing the policy of the state highway commission.

Sec. 28. There is hereby established a civil rights commission which shall consist of [8] EIGHT persons, not more than [4] FOUR of whom shall be members of the same political party, who shall be appointed by the governor, with the advice and consent of the senate, for [4] FOUR-year terms not more than [2] TWO of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of [race] religion, RACE, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have [the] power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

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

ARTICLE VI
JUDICIAL BRANCH

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Article VI
Judicial Branch

Sec. 1. The judicial power of the state is vested exclusively in one court of justice[,] which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and other courts of limited jurisdiction that the legislature may establish by a [2/3] TWO-THIRDS vote of the members ELECTED TO AND SERVING IN [of] each house.

Sec. 2. The supreme court shall consist of [8] SEVEN justices [to be] elected at non-partisan elections as provided by law. [A vacancy hereafter created as the result of the death, retirement or resignation of one incumbent justice shall not be filled.] The term of office shall be [for 8] EIGHT years and not more than [3] TWO terms of office shall expire at the same time. Nominations for justices of the supreme court shall be in the manner [as provided] PRESCRIBED by law[,]. [except] Any incumbent justice whose term is to expire may become a candidate for re-election by filing an affidavit of candidacy, in the form and manner prescribed by law, not less than 180 days prior to the expiration of his term.

Sec. 3. One justice of the supreme court shall be selected by the court as its chief justice AS [in the manner and for the term] provided by [the] rules of the court. He shall perform other duties required by the court. The supreme court shall appoint an administrator of the courts and other assistants of the supreme court as [shall] MAY be [deemed] necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.

Sec. 4. The supreme court shall have general superintending control over all courts; power to issue, hear, and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.

Sec. 5. The supreme court shall by general rules establish, modify, amend and simplify the practice and procedure in all courts of this state. The distinctions between law and equity proceedings shall, as far as practicable, be abolished. The office of master in chancery is prohibited.

Sec. 6. Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent.

Sec. 7. The supreme court may appoint, may remove, and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of [the funds] MONEYS appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

Sec. 8. The court of appeals shall consist initially of [9] NINE judges who shall be nominated and elected [on a] AT non-partisan ELECTIONS [basis] from districts, and in the manner, prescribed by law. The supreme court may prescribe by rule that the court of appeals may sit in divisions and for the terms of court and the times and places thereof. Each such division shall consist of not fewer than three judges. The number of judges comprising the court of appeals may be increased, and the districts from which they are elected may be [altered] CHANGED by law.

Sec. 9. Judges of the court of appeals shall hold office for a TERM [period] of [6] SIX years and until their successors are elected and qualified. The terms of office for the judges in each district shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 10. The jurisdiction of the court of appeals shall be provided by law and the practice and procedure therein shall be [as provided] PRESCRIBED by rules of the supreme court.

Sec. 11. The state shall be divided into judicial circuits along county lines in each of which there shall be elected one or more circuit judges as provided by law. [A] SESSIONS OF THE circuit court shall be held at least [4] FOUR times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or counties within the circuit in which he is elected, and in other circuits as may be provided by rules of the supreme court. The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall be created, altered and discontinued on recommendation of the supreme court to reflect changes in judicial activity. No change in the number of judges [n]or alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.

Sec. 12. Circuit judges shall be nominated and elected at non-partisan elections in the circuit in which they reside, and shall hold office for a TERM [period] of [6] SIX years and until their successors are elected and qualified. In circuits having more than one circuit judge their terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 13. THE circuit court[s] shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions[,] in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court.

Sec. 14. The clerk of each county organized for judicial purposes or other officer performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such county. The judges of the circuit court[s] may fill [any] A vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions.

Sec. 15. In each county organized for judicial purposes[,] there shall be a probate court. The legislature may [combine one or more counties into] CREATE OR ALTER probate COURT districts OF MORE THAN ONE COUNTY [upon the approval by a majority of the voters of each county voting separately on the question,] IF APPROVED IN EACH AFFECTED COUNTY BY A MAJORITY OF THE ELECTORS VOTING ON THE QUESTION. [or combine] THE LEGISLATURE MAY PROVIDE FOR THE COMBINATION OF the office of probate judge with any judicial office of limited jurisdiction [in any] WITHIN A county with supplemental salary as provided by law. The jurisdiction, powers and duties of the probate court[s] and of the judges thereof shall be [prescribed] PROVIDED by law. They shall [also] have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. 16. ONE OR MORE judges of probate AS PROVIDED BY LAW shall be nominated and elected at non-partisan elections in the counties or the probate districtS in which they reside and shall hold office for [a period] TERMS of [6] SIX years and until their successors are elected and qualified. In counties or districts with more than one judge the terms of office shall be arranged by law to provide that NOT all terms will [not] expire at the same time.

Sec. 17. No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or [by] the amount of judicial activity of his office.

Sec. 18. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within a [county or] circuit, and of the probate judges within a county or district, shall be uniform, and may be increased, but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

Each of the judges of the circuit court[s] shall receive an annual salary as provided by law. In addition to the salary received from the state, [treasury,] each circuit judge may receive from any county in which he regularly holds court [such] AN additional salary as [may be] determined from time to time by the board of supervisors of the county. In any county where [such] AN additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

Sec. 19. The supreme court, the court of appeals, the circuit court, the probate court and other courts designated as such by the legislature shall be courts of record and [shall] each SHALL have a common seal. [Except as otherwise authorized by this constitution,] Justices and judges of [the] courts of record [of this state shall] MUST be PERSONS WHO ARE licensed to practice law in this state. [and] No person shall be elected or appointed to a judicial office after reaching the age of 70 years.

Sec. 20. Whenever a JUSTICE OR judge removes his domicile beyond the limits of the territory from which he was elected, he shall [be deemed to] have vacated his office.

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

Sec. 21. Any justice or judge of a court of record shall be ineligible to be nominated for or elected to an elective office other than a judicial office during the period of his service [as a judge] and for one year thereafter.

Sec. 22. Any elected judge of [a] THE court of appeals, circuit court or probate court may become a candidate in the primary election for the office of which he is the incumbent by filing an affidavit of candidacy in the form and manner [provided] PRESCRIBED by law.

Sec. 23. A vacancy in the elective office of a judge of any court of record shall be filled at a general or special election AS PROVIDED BY [according to] law. The supreme court may authorize persons who have served as judges and who have retired, to perform judicial duties for the limited period of time from the occurrence of the vacancy until the successor is elected and qualified. SUCH PERSONS SHALL BE INELIGIBLE FOR ELECTION TO FILL THE VACANCY.

Sec. 24. There shall be printed upon the ballot under the name of each elected incumbent justice or judge[,] who is a candidate for nomination or election to the same office[,] the designation of that office.

Sec. 25. For reasonable cause, which is not sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of [2/3] TWO-THIRDS of the members elected to and serving in each house of the legislature. The cause for removal shall be stated at length in [such] THE resolution.

Sec. 26. The offices of circuit court commissioner and justice of the peace shall be abolished at the expiration of [5] FIVE years from the date this constitution becomes effective or may within this period be abolished by law. Their jurisdiction and powers within this period shall be as provided by law. Within [such] THIS [5] FIVE-year period, the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law. The location of such court or courts, and the qualifications, tenure, method of election[,] and salary of the judges of such court or courts, and by what governmental units the JUDGES [same] shall be paid, shall be provided by law, subject to the limitations contained in this Article.

Statutory courts in existence at the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until they are abolished by law.

Sec. 27. The supreme court, the court of appeals, the circuit court, or any justices or judges thereof, shall not exercise any power of appointment to public office except as [otherwise] provided in this constitution.

Sec. 28. All final decisions, findings, rulings and orders of any administrative officer or [body] AGENCY existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights [,] or licenses, shall be subject to direct review by the courts as [shall be] provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law[,]; and, in cases in which a hearing is required, whether the same are supported by competent, material[,] and substantial evidence on the whole record[:]. [Provided however, that the] Findings of fact [of the] IN workmen's compensation [commission] PROCEEDINGS shall be conclusive in the absence of fraud unless otherwise provided by law.

Sec. 29. Justices of the supreme court, judges of the court of appeals, circuit judges[,] and other judges as provided by law shall be conservators of the peace within their respective jurisdictions.

ARTICLE VII
LOCAL GOVERNMENT

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Article VII
Local Government

Sec. 1. Each organized county shall be a body corporate with powers and immunities [prescribed] PROVIDED by law.

Sec. 2. Any county may frame, adopt, amend or repeal a county charter in a manner and with powers and limitations to be provided by general law, which shall among other things provide for the election of a charter commission. The law may permit the organization of county government in form different from that set forth in this constitution and shall limit the rate of ad valorem property taxation for county purposes, and restrict THE [their] powers of CHARTER COUNTIES TO borrow[ing] money and contract[ing] debts. Each charter county is hereby granted power to levy other taxes for county purposes subject to limitations and prohibitions set forth in this constitution or law. Subject to law, a county charter may authorize the county through its regularly constituted authority to [enact] ADOPT resolutions and ordinances relating to its concerns.

The board of supervisors by a majority vote of its members may, and upon petition of [5] FIVE percent of the electors shall, place upon the ballot the question of electing a commission to frame a charter.

No county charter shall be adopted, amended or repealed until approved by a majority of electors voting on the question.

Sec. 3. No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed by the United States, unless APPROVED in [pursuance of] THE MANNER PRESCRIBED BY law BY a majority of electors voting [on] THEREON [the question] in each county to be affected. [thereby shall so decide.]

Sec. 4. There shall be elected for [4] FOUR-year terms in each organized county a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be [prescribed] PROVIDED by law. The board of supervisors in any county may COMBINE [unite] the offices of county clerk and register of deeds in one office or separate the same at pleasure.

Sec. 5. The sheriff, county clerk, county treasurer and register of deeds shall hold their principal offices at the county seat.

Sec. 6. The sheriff may be required by law to renew his security [from time to time] PERIODICALLY and in default of giving such security, his office shall be [deemed] vacant. The county shall never be responsible for his acts, except that the board of supervisors may protect him against claims by prisoners for unintentional injuries received while in his custody. He shall not hold any other office except in [connection with] civil defense.

Sec. 7. A board of supervisors shall be established in each ORGANIZED county consisting of one member from each organized township and such representation from cities as [shall be prescribed] PROVIDED by law.

Sec. 8. [The] Boards of supervisors shall have LEGISLATIVE, ADMINISTRATIVE [such] AND SUCH OTHER powers and duties as provided by law [not inconsistent with this constitution].

Sec. 9. [The] Boards of supervisors shall have exclusive power to fix the compensation of [all] county [officials] OFFICERS not otherwise provided [for] by law.

Sec. 10. [No] A county seat once established shall NOT be removed until the place to which it is proposed to be [re]moved shall be designated by [2/3] TWO-THIRDS of the MEMBERS OF THE board of supervisors [of the county,] and a majority of the electors voting thereon shall have [voted in favor of] APPROVED the proposed location in [a] THE manner prescribed by law.

Sec. 11. No county shall incur any indebtedness which shall increase its total debt beyond 10 percent of its assessed valuation.

Sec. 12. [No] A navigable stream [of this state] shall NOT be bridged or dammed without permission granted by the board of supervisors of the county [under the provisions of] AS PROVIDED BY law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and POLITICAL SUBDIVISIONS [the municipalities] therein.

Sec. 13. Two or more CONTIGUOUS counties may combine into a single county [provided] IF APPROVED IN EACH AFFECTED COUNTY BY a majority of the [voters] ELECTORS voting on the question. [of each county, voting separately, approve such combination and the counties are contiguous.]

Sec. 14. The board of supervisors of each organized county may organize and consolidate townships under restrictions and limitations [prescribed] PROVIDED by law.

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

Sec. 15. Any county, when authorized by its BOARD OF SUPERVISORS [legislative body] shall have the authority to enter or to intervene in any ACTION [suit] or certificate proceeding involving the services, charges or rates of any privately owned public utility furnishing services or commodities to rate payers within the county.

Sec. 16. The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the state and by the counties and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The legislature may [also prescribe] PROVIDE the powers and duties of counties in relation to highways, bridges, culverts and airports; may provide for county road commissioners to be appointed or elected, with powers and duties [as may be prescribed] PROVIDED by law. The ad valorem property tax IMPOSED for road purposes by any county shall not exceed in any year [1/2] ONE-HALF of one percent of the assessed valuation for the preceding year.

Sec. 17. Each organized township shall be a body corporate with powers and immunities [prescribed] PROVIDED by law [and not inconsistent with this constitution].

Sec. 18. IN EACH ORGANIZED TOWNSHIP there shall be elected for [a] termS of not less than [2 years] TWO nor more than [4] FOUR years as [provided] PRESCRIBED by law [in each organized township] a [township] supervisor, a [township] clerk, a [township] treasurer, and[,] not to exceed [4 township] FOUR trustees, whose legislative and administrative powers and duties shall be [prescribed] PROVIDED by law.

Sec. 19. No ORGANIZED township shall grant any public utility franchise which is not subject to revocation at the will of the township, unless the proposition shall FIRST have BEEN APPROVED BY [first received the affirmative vote of] a majority of the electors of such township voting thereon at a regular or special election.

Sec. 20. The legislature shall provide by law for the dissolution of township government whenever all the territory of [a] AN ORGANIZED township is included within the boundaries of a village or villages NOTWITHSTANDING THAT A VILLAGE MAY INCLUDE TERRITORY WITHIN ANOTHER ORGANIZED TOWNSHIP and provide by law for the classification of such village or villages as cities [notwithstanding that a village may include territory within another township].

Sec. 21. The legislature shall provide by general laws for the incorporation of cities and villages[;] . [such general laws] SUCH LAWS shall limit their rate of [general] AD VALOREM property taxation for municipal purposes, and restrict [their] THE powers of CITIES AND VILLAGES TO borrow[ing] money and contract[ing] debts. Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.

Sec. 22. Under general laws the electors of each city and village shall have the power and authority to frame, adopt[,] and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village. Each such city and village shall have power to [pass] ADOPT resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall [be deemed to] limit or restrict the general grant of authority conferred by this section.

Sec. 23. Any city or village may acquire, own, establish and maintain, within or without its corporate limits, parks, boulevards, cemeteries, hospitals[,] and all works which involve the public health or safety.

Sec. 24. Subject to this constitution, any city or village may acquire, own[,] and operate, within or without its corporate limits, public service facilities for supplying water, light, heat, power, sewage disposal and transportation to the municipality and the inhabitants thereof.

Any city or village may sell and deliver heat, power[, and] OR light without its corporate limits [to] IN an amount not [to exceed] EXCEEDING 25 percent of that furnished by it within the corporate limits, except as greater amounts may be permitted by law; may sell and deliver water and provide sewage disposal services[,] outside of its corporate limits in such amount as may be determined by the legislative body of the city or village; and may operate transportation lines [without] OUTSIDE the municipality within such limits as may be prescribed by law.

Sec. 25. No city or village shall acquire any public utility furnishing light, heat [and] OR power, or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless the proposition shall FIRST have been approved by [3/5] THREE-FIFTHS of the electors voting thereon. No city or village may sell any such public utility unless the proposition shall FIRST have been approved by a majority of the electors voting thereon, or a greater number if the charter shall so provide.

Sec. 26. Except as otherwise provided in this constitution, no city or village shall have the power to loan its credit for any private purpose or, except as [authorized] PROVIDED by law, for any public purpose.

Sec. 27. Notwithstanding any other provision

of this constitution the legislature may establish in metropolitan areas additional forms of government or authorities with powers, duties and jurisdictions as the legislature shall provide. Wherever possible, such additional forms of government or authorities shall be designed to perform multi-purpose functions rather than a single function.

Sec. 28. The legislature by general law shall authorize two or more counties, cities, villages, townships or districts, or any combination thereof among other things to: enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government [and with intergovernmental agencies]; lend their credit to one another or any combination thereof as PROVIDED [prescribed] by law in connection with any authorized publicly owned undertaking.

Any other provision of this constitution notwithstanding, an officer or employee of the state or any [of] such unit[s] of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the [above] purposes SET FORTH IN THIS SECTION and shall not be required to relinquish his office or employment by reason of such service.

Sec. 29. No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, city, village or township for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, city, village or township; or to transact local business therein without first obtaining a franchise from the city, village or township. Except as otherwise [authorized] PROVIDED in this constitution the right of all counties, cities, villages and townships to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.

Sec. 30. No franchise or license shall be granted by any city, village or township for a [longer] period LONGER than 30 years.

Sec. 31. The legislature shall not vacate or alter any road, street, alley, or public place under the jurisdiction of any county, township, city or village.

Sec. 32. Any county, township, city, village, authority or school district empowered by the legislature or by this constitution to prepare budgets of estimated expenditures and revenues shall adopt [said] SUCH budgets only after a public hearing in a manner prescribed by law.

Sec. 33. The provisions of this constitution and law concerning cities, villages, counties and townships shall be liberally construed in their favor. Powers granted to counties and townships by this constitution and by law shall include those fairly implied and not [inconsistent with nor] prohibited by this constitution.

ARTICLE VIII
EDUCATION

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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 institions shall be open to the public.

Sec. 5. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. [These] EACH board[s] shall have [the] general supervision of [their respective] ITS institution[s] and the control and direction of all expenditures from the institution's funds. EACH BOARD [They] shall, as often as necessary, elect a president of the institution under ITS [their respective] supervision, [who] HE shall be the principal executive officer of the institution, [and] be ex-officio a member of the board [but] without the right to vote[,] and preside at meetings of the board. The board[s] of each institution shall consist of [8] EIGHT members who shall hold office for TERMS OF [8] EIGHT years and who shall be elected [according to] AS PROVIDED BY law. The governor shall fill board vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as [prescribed] PROVIDED by law.

Sec. 6. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. [and] IT shall, as often as necessary, elect a president of the institution under its supervision. [who] HE shall be the principal executive officer of the institution and be ex-officio a member of the board [but] without the right to vote. The board may elect one of ITS MEMBERS [their number], or may designate the president, to preside at board meetings. Each board of control shall consist of [8] EIGHT members who shall hold office for TERMS OF [8] EIGHT years, NOT MORE THAN TWO OF WHICH SHALL EXPIRE IN THE SAME YEAR, and WHO SHALL be appointed by the governor BY AND WITH THE ADVICE AND CONSENT OF THE SENATE. [in the same manner as executive appointments are provided in this constitution.] Vacancies shall be filled in like manner.

Sec. 7. The legislature shall provide by law for the establishment and financial support of public community and junior colleges[,] which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges[,] which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of [8] EIGHT members who shall hold office for TERMS OF [8] EIGHT years, NOT MORE THAN TWO OF WHICH SHALL EXPIRE IN THE SAME YEAR, and WHO SHALL be appointed by the state board of education. Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex-officio a member of this board without the right to vote.

Sec. 8. Institutions, programs, and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally, or otherwise seriously handicapped shall always be fostered and supported.

Sec. 9. The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof. All fines assessed and collected in the several counties, cities[,] and townships for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law.

ARTICLE IX
FINANCE & TAXATION

Sec.		Com. Proposal
1.	Tax for State Expenses	50a
2.	No Surrender of Tax Power	54a
3.	Uniform Rule of Taxation	51a
4.	Non Profit Corporation	51a
5.	Assessment, rate of	52a
6.	Limits on Ad Valorem Taxes	56a
7.	No graduated tax	51a
8.	Sales Tax limit	39a
9.	Gasoline and Motor Vehicle Taxes, Use, Exceptions	38a
10.	Sales Taxes, Distribution of	39a
11.	School Aid Fund	39b
12.	Evidence of Indebtedness	23a
13.	Public Bodies, Borrowing of	49a
14.	State Pledge Full Faith and Credit	23b
15.	Additional Borrowing	23b
16.	School Bonds	23d
17.	Payments from Treasury	37b
18.	Prohibition on Credit to Private Concerns	23c
19.	Stock, Interest of State in	37d
20.	State Depositories	37a
21.	Annual Accounting of Public Moneys	37c, 78a
22.	Adjustment of Claims	74a
23.	Financial Records; open and public	37c–1
24.	Pensions, State Obligations	40a

Article IX
Finance and Taxation

Sec. 1. The legislature shall impose taxes sufficient with other resources to pay the expenses of state government.

Sec. 2. The power of taxation shall never be surrendered, suspended[,] or contracted away.

Sec. 3. The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 percent; and for a system of equalization of assessments. The legislature may provide for alternative means of taxation of designated real and tangible personal property in lieu of general ad valorem taxation. Every tax other than the general ad valorem property tax shall be uniform upon the class or classes on which it operates.

Sec. 4. Property held by a non-profit corporation, association, or legal entity and used and occupied exclusively for religious, educational, charitable or burial grounds purposes, as defined by law, shall be exempt from real and personal property taxes.

Sec. 5. The legislature shall provide for the assessment by the state of the property of those PUBLIC SERVICE businesses [whose property is now] assessed by the state AT THE DATE THIS CONSTITUTION BECOMES EFFECTIVE, and of other property as designated by the legislature, and for the [levy] IMPOSITION and collection of taxes thereon. Property assessed by the state shall be assessed at the same proportion of its true cash value as the legislature shall specify for property subject to general ad valorem taxation. The rate of taxation on such property shall be the average rate levied upon other property in this state under the general ad valorem tax law, or, if the legislature provides, the rate of tax applicable to the property of each business enterprise assessed by the state shall be the average rate of ad valorem taxation levied upon other property in all counties in which any of such property is situated.

Sec. 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes [levied against] IMPOSED UPON REAL AND TANGIBLE PERSONAL property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of [said] property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and FOR the townships and FOR school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. The limitations established [herein] BY THIS CONSTITUTION or by county vote may be increased to an aggregate of not to exceed 50 mills, OR MORE IF PROVIDED BY LAW, on each dollar of [such] valuation, [except as otherwise provided by law,] for a period of not to exceed 20 years at any one time, [by the vote of] IF APPROVED BY a majority of the [qualified] electors, QUALIFIED UNDER [as defined in] Article II, [hereof] SECTION 6 OF THIS CONSTITUTION[,] VOTING ON THE QUESTION [of any such taxing authority voting thereon].

The foregoing limitations shall not apply to [(a)] taxes [levied] IMPOSED for the payment of principal and interest on bonds or other evidences of indebtedness[,] or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be [levied] IMPOSED without limitation as to rate or amount[,]; or [(b)] TO taxes [levied] IMPOSED for any other purpose by any city, village, charter county, charter township or other charter authority the tax limitations of which are provided by charter or by general law.

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

In any school district which extends into [2] TWO or more counties, [there may be levied and collected for school purposes throughout the district] property taxes at the highest rate available in the county which contains the greatest part of the area of the district MAY BE IMPOSED AND COLLECTED FOR SCHOOL PURPOSES THROUGHOUT THE DISTRICT.

Sec. 7. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

Sec. 8. [At no time shall] The legislature SHALL NOT [levy] IMPOSE a sales tax on retailers at a rate of more than [4] FOUR percent of their gross taxable sales of tangible personal property.

Sec. 9. All specific taxes, except general sales and use taxes and regulatory fees, imposed DIRECTLY OR INDIRECTLY on fuels sold or used to propel motor vehicles upon highways and on registered motor vehicles shall, after the payment of [the] necessary collection expenses, be used exclusively for highway purposes as defined by law.

Sec. 10. One-eighth of all taxes [upon the privilege of selling] IMPOSED ON RETAILERS ON TAXABLE SALES AT RETAIL OF tangible personal property [at retail] shall be used exclusively for assistance to cities, villages and townships, on a population basis as provided by law. IN DETERMINING POPULATION the legislature may exclude [from population] any portion of the total number of persons who are wards, patients or convicts [of] IN any tax supported institution.

Sec. 11. There shall be established a state school aid fund. The legislature may [from time to time] dedicate [certain] tax revenues to this fund which shall be used exclusively for the support of public education and [for] school employees' retirement systems, [in a manner] AS provided by law.

Sec. 12. No evidence of state indebtedness shall be issued except for debts authorized pursuant to this constitution.

Sec. 13. Public bodies corporate shall have power to borrow money and to issue their securities evidencing debt, subject to this constitution and law.

Sec. 14. To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 percent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

Sec. 15. The state may borrow money for specific purposes in amounts as may be provided by acts of the legislature adopted by a vote of [2/3] TWO-THIRDS of the members elected to and serving in each house, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

Sec. 16. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

If the minimum amount which [it] would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as [last] FINALLY equalized [by the state], or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall LEND [loan] the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall LEND [loan] to it an amount sufficient to enable the school district to make the payment.

The term "qualified bonds" means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued prior to May 4, 1955, or issued thereafter and qualified as provided by law pursuant to Section 27 or Section 28, Article X, of the Constitution of 1908 or pursuant to this section.

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used toward the repayment of state loans. In any year when such [a] levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Subject to the foregoing provisions, the legislature shall have the power to prescribe and to limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

The power to tax for the payment of principal

and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made to school districts, shall be without limitation as to rate or amount.

All rights acquired under Sections 27 and 28, Article X of the Constitution of 1908, by holders of bonds heretofore issued, and all obligations assumed by the state or any school district under these sections, shall remain unimpaired.

Sec. 17. No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

Sec. 18. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

This section shall not be construed to prohibit the investment of public funds until needed for current requirements [or the investment of public employee retirement system funds], as [may be] provided by law.

Sec. 19. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation[,] . [except that] Funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law[;] . [and except that] Endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

Sec. 20. No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money shall be deposited in any bank in excess of 50 percent of the capital and surplus of such bank. Any bank receiving deposits of state money shall show the amount of state money so deposited as a separate item in all published statements.

Sec. 21. The legislature shall provide by law for the annual accounting for all public moneys, state and local, and may [also] provide by law for interim accounting.

The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.

Sec. 22. PROCEDURES FOR THE EXAMINATION AND ADJUSTMENT OF CLAIMS AGAINST THE STATE SHALL BE PRESCRIBED BY LAW.

Sec. 23. All financial records, accountings, audit reports and other reports of public moneys shall be public records and open to inspection. A statement of all revenues and expenditures of public moneys shall be published and distributed annually, as [prescribed] PROVIDED by law.

Sec. 24. The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby.

Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be [usable] USED for financing unfunded accrued liabilities.

ARTICLE X
PROPERTY

Sec.		Com. Proposal
1.	Married Women	63a
2.	Eminent Domain	67a
3.	Homestead Exemption	12a
4.	Escheats	74a
5.	State Lands	129a
6.	Alien Rights	43a

Article X
Property

Sec. 1. The real and personal estate of every woman, acquired before marriage, and all property to which she may afterwards become entitled by gift, grant, inheritance or devise, shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be devised or bequeathed by her as if she were unmarried.

Sec. 2. Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law.

Sec. 3. A homestead in the amount of not less than $3,500[.00] and personal property of every resident of this state in the amount of not less than $750[.00], as defined by law, shall be exempt from forced sale on execution or other process of any court. Such exemptions shall not extend to any lien thereon excluded FROM EXEMPTION by law.

Sec. 4. Procedures [for the examination and adjustment of claims against the state and procedures] relating to escheats and to the custody and disposition of escheated property shall be prescribed by law.

Sec. 5. The legislature shall have general supervisory jurisdiction over all state owned lands useful for forest preserves, game areas and recreational purposes; shall require annual reports as to such lands from all departments having supervision or control thereof; and shall by general law provide for the sale, lease[,] or other disposition of such lands.

The legislature BY AN ACT ADOPTED [by a resolution concurred in] by TWO-THIRDS [2/3]

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

of the members elected to and serving in each house may [from time to time declare] DESIGNATE any part of such lands AS [to be] a state land reserve. [and may remove lands from such classification.] No lands in the state land reserve may be REMOVED FROM THE RESERVE, sold, leased or otherwise disposed of except by an act of the legislature.

Sec. 6. Aliens who are residents of this state shall enjoy the same rights and privileges in property as citizens of this state.

ARTICLE XI
PUBLIC OFFICERS AND EMPLOYMENT

Sec.		Com. Proposal
1.	Oath of Office	25a
2.	Terms of Office	61a
3.	Extra Compensation	62a
4.	Custodian of Funds, Accounting	55a
5.	Classified Civil Service, creation	22a
6.	Civil Service Commission	22a
7.	Commission to make rules and fix compensation	22a
8.	Increases in Compensation	22a
9.	May abolish positions	22a
10.	Commission to recommend increases to governor and legislature	22a
11.	Commission to receive appropriations	22a
12.	Violations of Civil Service Article	22a
13.	Civil Service, Local Government, county	76a, 81m
14.	Impeachment	42a, 42b, 42c, 42d
15.	Removal of Elected Officers	42e

Article XI
Public Officers and Employment

Sec. 1. [Members of the legislature and] All officers, LEGISLATIVE, executive and judicial, [shall,] before [they enter] ENTERING upon the duties of their respective offices, SHALL take and subscribe the following oath or affirmation: ["]I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of ..... according to the best of my ability.["] No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.

Sec. 2. The terms of office of elective state officers, members of the legislature[,] and JUSTICES AND judges of courts of record shall begin at [12:00] TWELVE o'clock noon on the first day of January next succeeding their election, except as otherwise provided in this constitution. The terms of office of county officers shall begin on the first day of January next succeeding their election, except as otherwise provided by law.

Sec. 3. Neither the legislature nor any political subdivision of this state shall grant or authorize extra compensation to any public officer, agent or contractor after the service has been rendered or the contract entered into.

Sec. 4. No person having custody or control of public moneys shall [have a seat in] BE A MEMBER OF the legislature, [n]or be eligible to any office of trust or profit under this state, until he shall have made an accounting, as provided by law, of all sums for which he may be liable.

Sec. 5. The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the [chief] PRINCIPAL executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legislature, employees of the state institutions of higher education, all persons in the armed forces of the state, [8] EIGHT exempt positions in the office of the governor, and within each principal department, when requested by the department head, [2] TWO other exempt positions, one of which shall be policy-making. The civil service commission may exempt [3] THREE additional positions of a policy-making nature within each principal department.

Sec. 6. The civil service commission shall be non-salaried and shall consist of [4] FOUR persons, not more than [2] TWO of whom shall be members of the same political party, appointed by the governor for TERMS OF [8] EIGHT yearS, [overlapping terms.] NO TWO OF WHICH SHALL EXPIRE IN THE SAME YEAR.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

Sec. 7. The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

No person shall be appointed to or promoted in the classified service who has not been certified BY THE COMMISSION as qualified for such appointment or promotion [by the commission]. No appointments, promotions, demotions or removals in the classified service shall be made for

partisan, racial or religious considerations.

Sec. 8. Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. Within 60 calendar days following such transmission, the legislature may, by a [2/3] TWO-THIRDS vote of the members elected to and serving in each house, reject, reduce, or modify increases in rates of compensation authorized by the commission[:]. [Provided however,] The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year.

Sec. 9. The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition of a position shall have a right of appeal to the commission through established grievance procedures.

Sec. 10. The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

Sec. 11. To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within [6] SIX months after the conclusion of each fiscal year the commission shall return to the state treasury all [funds] MONEYS unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

Sec. 12. No payment for personal services shall be made or authorized until the provisions of this [article] CONSTITUTION PERTAINING TO CIVIL SERVICE have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

Sec. 13. BY ORDINANCE OR RESOLUTION WHICH SHALL NOT TAKE EFFECT UNTIL APPROVED BY A MAJORITY OF THE ELECTORS VOTING THEREON, each city, village, township, county, school district[,] and other governmental unit[s] or authorit[ies]Y [performing the same or similar functions] may[, by ordinance or resolution of the governing body which ordinance or resolution shall not take effect until approved by a majority of the electors voting thereon,] establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services [to them] TO ANY SUCH UNIT on a reimbursable basis.

[The board of supervisors of any county with a population of 1,000,000 or more shall have the power by ordinance to establish a merit system for county employment. The ordinance or any amendments thereto shall not take effect until approved by a majority of the electors voting thereon.]

Sec. 14. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected and serving shall be necessary to direct an impeachment.

When an impeachment is directed, the house of representatives shall elect [3] THREE of its members to prosecute the impeachment.

Every impeachment shall be tried by the senate immediately after the final adjournment of the legislature. The senators shall take an oath or affirmation truly and impartially to try and determine the impeachment according to the evidence. When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside.

No person shall be convicted without the concurrence of [2/3] TWO-THIRDS of the senators elected and serving. Judgment in case of conviction shall not extend further than removal from office, but the person convicted shall be liable to punishment according to law.

No judicial officer shall exercise ANY OF THE FUNCTIONS OF his office after an impeachment is directed until he is acquitted.

Sec. 15. Any elected officer of a political subdivision may be removed from office in the manner and for the causes [prescribed] PROVIDED by law.

ARTICLE XII
AMENDMENT & REVISION

Sec.		Com. Proposal
1.	By Legislature	64a
2.	By Petition of Electors	65a
3.	Constitutional Convention	66a

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

Article XII
Amendment & Revision

Sec. 1. Amendments to this constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by [2/3] TWO-THIRDS of the members elected to and serving in each house on a [yea and nay] vote WITH THE NAMES AND VOTE OF THOSE VOTING entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct. If a majority of electors voting on [such] a proposed amendment approve [such amendment,] THE SAME, it shall become part of the constitution and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved.

Sec. 2. Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected, or 300,000 registered electors, whichever is less. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. The person authorized by law to receive such petition[,] shall[,] upon its receipt[,] determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next GENERAL election. [at which any state officer is to be elected.] Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot [used in such election] shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.

If the proposed amendment is approved by a majority of the electors voting on the question, the proposed amendment shall become part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. IF TWO OR MORE AMENDMENTS APPROVED BY THE ELECTORS AT THE SAME ELECTION CONFLICT, THAT AMENDMENT RECEIVING THE HIGHEST AFFIRMATIVE VOTE SHALL PREVAIL.

Sec. 3. At the general election to be held in the year 1978, and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than [4] FOUR months after the proposal was certified as approved, the electors of each [house of] representative[s] district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate. The delegates so elected shall convene at the SEAT OF GOVERNMENT [capital city] on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. The governor shall appoint a qualified resident of the same district to fill a vacancy in the office of any delegate. [If the legislature shall determine that delegates shall be elected on a partisan basis, the governor shall appoint a qualified resident of the same district and of the same party.] WHO SHALL BE A MEMBER OF THE SAME PARTY AS THE DELEGATE VACATING THE OFFICE IF THE LEGISLATURE PROVIDES FOR PARTISAN ELECTION OF DELEGATES. The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, WITH THE NAMES AND VOTE OF THOSE VOTING [the yeas and nays being] entered in the journal. Any proposed constitution or amendments adopted

by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

SCHEDULE AND TEMPORARY PROVISIONS

Sec.		Com. Proposal
1.	Attorney general to recommend necessary laws	44d
2.	Writs, actions, claims, etc. remain effective	44b
3.	Officers continue their duties	44c and 71g
4.	Terms of officers elected November, 1962	68b
5.	Terms of governor, etc. elected 1964. When 4 year terms begin	80 and 71a
6.	Senate Apportionment	80
7.	Supreme Court, reduction to seven justices	91a
8.	Judges of Probate, eligible for re-election	96f
9.	Overlapping terms for judiciary	96j
10.	State Board of Education	47a
11.	Boards of Control	98c
12.	Educational Boards	
13.	Initial allocation	71b
14.	Contractual obligations remain in force	6a
15.	Mackinac Bridge refunding	23b
16.	Constitution submitted to people, when	68a
17.	Constitution submitted to people, manner	68c

TO INSURE THE ORDERLY TRANSITION FROM THE CONSTITUTION OF 1908 TO THIS CONSTITUTION THE FOLLOWING SCHEDULE IS SET FORTH TO BE EFFECTIVE FOR SUCH PERIOD AS ITS PROVISIONS REQUIRE.

Sec. 1. The attorney general [of the state] shall recommend to the legislature AS SOON AS PRACTICABLE [at the commencement of the next session] such changes AS MAY BE NECESSARY [in existing laws as may be deemed necessary] to adapt EXISTING LAWS [the same] to this constitution.

Sec. 2. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights [of individuals, partnerships, bodies corporate, and of this state or any subdivision or agency thereof] existing on the effective date [hereof] OF THIS CONSTITUTION shall continue unaffected except as modified in accordance with the provisions of this constitution.

Sec. 3. Except as otherwise provided in this constitution, all officers filling any office by election or appointment shall continue to exercise THEIR POWERS AND [the] duties [thereof, according to their respective commissions or appointments,] until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or the laws enacted pursuant thereto.

No provision of this constitution, or of law or of executive order authorized by this constitution shall shorten the term of any person elected to state office at a statewide election ON [in] or prior to THE DATE ON WHICH THIS CONSTITUTION IS SUBMITTED TO A VOTE. [November, 1962.] In the event the duties of any [of] such officers shall not have been ABOLISHED OR incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated OR ABOLISHED.

Sec. 4. All officers elected [on the Tuesday after the first Monday of November, 1962] AT THE SAME ELECTION THAT THIS CONSTITUTION IS SUBMITTED TO THE PEOPLE FOR ADOPTION [under the 1908 Constitution as amended and existing laws] shall take office [on and after the first day of January, 1963,] and complete the term to which they were elected UNDER THE 1908 CONSTITUTION AND EXISTING LAWS AND CONTINUE TO SERVE UNTIL THEIR SUCCESSORS ARE ELECTED AND QUALIFIED PURSUANT TO THIS CONSTITUTION OR LAW.

Sec. 5. Notwithstanding any other provision in this constitution, the governor, THE lieutenant governor, THE secretary of state [and], THE attorney general, AND state senators shall be elected at the general election in 1964 to serve for [2] TWO year terms beginning on the first day of January next succeeding their election. The first [4 year] election OF SUCH OFFICERS FOR FOUR-YEAR TERMS under this constitution shall be held at the general election in 1966.

Sec. 6. The state shall be districted for the purpose of electing senators in accordance with the provisions of [Committee Proposal 80, section a,] ARTICLE IV, SECTION 2 after the official publication of the total population count of the 1970 decennial federal census. Until the [re]apportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution[, as amended,] shall remain intact except that upon the adoption of this constitution each of the counties of Kent, Genesee, Macomb and Oakland shall be divided by the apportionment commission into [2] TWO senatorial districts and Wayne county into [8] EIGHT senatorial districts in accordance with this constitution.

Sec. 7. [A vacancy hereafter created as the result of the death, retirement or resignation of one incumbent justice shall not be filled.]

NOTWITHSTANDING THE PROVISIONS OF THIS CONSTITUTION THAT THE SUPREME COURT SHALL CONSIST OF SEVEN JUSTICES IT SHALL CONSIST OF EIGHT JUSTICES UNTIL THE TIME THAT A VACANCY OCCURS AS A RESULT OF DEATH, RETIREMENT OR RESIGNATION OF A JUSTICE. THE FIRST SUCH VACANCY SHALL NOT BE FILLED.

Sec. 8. Any [supreme court justice, circuit judge,] judge of probate serving [at] ON the [time this constitution becomes] effective DATE OF THIS CONSTITUTION may serve the remainder of the term and be eligible TO SUCCEED HIMSELF for election [to his present office] regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

Sec. 9. The provisions of [this] Article VI providing that terms of JUDICIAL offices shall not all expire at the same time, shall be implemented BY LAW PROVIDING THAT at the next election for such offices [by legislation providing for elections] JUDGES SHALL BE ELECTED for terms of varying length, none of which shall be shorter than the [basic] REGULAR term provided for the office.

Sec. 10. THE MEMBERS OF THE STATE BOARD OF EDUCATION PROVIDED FOR IN ARTICLE VIII SECTION 3 SHALL FIRST BE ELECTED AT THE FIRST GENERAL ELECTION AFTER THE EFFECTIVE DATE OF THIS CONSTITUTION FOR THE FOLLOWING TERMS: TWO SHALL BE ELECTED FOR TWO YEARS, TWO FOR FOUR YEARS, TWO FOR SIX YEARS, AND TWO FOR EIGHT YEARS AS PRESCRIBED BY LAW.

THE STATE BOARD OF EDUCATION PROVIDED FOR IN THE CONSTITUTION OF 1908 IS ABOLISHED AT TWELVE O'CLOCK NOON JANUARY 1 OF THE YEAR FOLLOWING THE FIRST GENERAL ELECTION UNDER THIS CONSTITUTION AND THE TERMS OF MEMBERS THEREOF SHALL THEN EXPIRE.

Sec. 11. THE PROVISIONS OF THIS CONSTITUTION PROVIDING FOR MEMBERS OF BOARDS OF CONTROL OF INSTITUTIONS OF HIGHER EDUCATION AND THE STATE BOARD OF PUBLIC COMMUNITY AND JUNIOR COLLEGES SHALL BE IMPLEMENTED BY LAW. THE LAW MAY PROVIDE THAT THE TERM OF EACH MEMBER IN OFFICE ON THE DATE OF THE VOTE ON THIS CONSTITUTION MAY BE EXTENDED, AND MAY FURTHER PROVIDE THAT THE INITIAL TERMS OF OFFICE OF MEMBERS MAY BE LESS THAN EIGHT YEARS.

Sec. 12. THE PROVISIONS OF THIS CONSTITUTION INCREASING THE NUMBER OF MEMBERS OF THE BOARD OF TRUSTEES OF MICHIGAN STATE UNIVERSITY AND OF THE BOARD OF GOVERNORS OF WAYNE STATE UNIVERSITY TO EIGHT, AND OF THEIR TERMS OF OFFICE TO EIGHT YEARS, SHALL BE IMPLEMENTED BY LAW. THE LAW MAY PROVIDE THAT THE TERM OF EACH MEMBER IN OFFICE ON THE DATE OF THE VOTE ON THIS CONSTITUTION MAY BE EXTENDED ONE YEAR, AND MAY FURTHER PROVIDE THAT THE INITIAL TERMS OF OFFICE OF THE ADDITIONAL MEMBERS MAY BE LESS THAN EIGHT YEARS.

Sec. 13. The initial allocation of departments by law pursuant to Article V, Section 2 shall be completed within two years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make the initial allocation.

Sec. 14. Contractual obligations of the state incurred pursuant to the constitution of 1908 [as amended] shall continue to be obligations of the state.

For the retirement of [such] notes and bonds [as may have been] issued under Section 26 of Article X of the 1908 constitution, there is hereby appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each [such] year.

Sec. 15. [Provided however, That] The legislature [is authorized to provide by general law adopted] by a vote of [2/3] TWO-THIRDS of the members elected to and serving in each house MAY PROVIDE THAT THE STATE MAY [for the] borrow[ing of] money AND MAY PLEDGE ITS FULL FAITH AND CREDIT for [the] refunding [of] any bonds issued by the Mackinac Bridge Authority[,]AND at [which] THE time OF REFUNDING the Mackinac Bridge Authority [Act] shall be [repealed] ABOLISHED and the operation of the bridge SHALL be assumed by the state highway department. THE LEGISLATURE MAY IMPLEMENT THIS SECTION BY LAW.

Sec. 16. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the Tuesday after the first Monday of November, 1962. It shall be the duty of the secretary of state forthwith to give notice of such submission to all other officers required to give or publish any notice in regard to A GENERAL [such] election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.

Sec. 17. Every registered elector may vote

on the adoption of the constitution. The board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office, the words: ["] Shall the revised constitution be adopted? ( ) Yes. ( ) No. ["] All votes cast at THE [this] election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. [Should] IF the revised constitution so submitted receiveS more votes in its favor than were cast against it, it shall be the supreme law of the state on and after the first day of January OF THE YEAR FOLLOWING ITS ADOPTION [,1963, except as otherwise provided in this constitution].

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

The roll was called and the delegates voted as follows:

Yeas—57

Allen	Howes	Pugsley
Andrus, Miss	Hoxie	Radka
Anspach	Jones	Richards, J. B.
Austin	Leibrand	Romney
Baginski	Leppien	Rood
Barthwell	Lesinski	Rush
Batchelor	Madar	Sablich
Beaman	Marshall	Seyferth
Bentley	Martin	Sleder
Brake	McAllister	Snyder
Dade	McCauley	Spitler
Dell	McLogan	Stafseth
Downs	Millard	Stopczynski
Elliott, Mrs. Daisy	Mosier	Suzore
Farnsworth	Perlich	Thomson
Faxon	Perras	Walker
Figy	Plank	Wilkowski
Hannah, J. A.	Powell	Woolfenden
Hart, Miss	Prettie	Young

Nays—68

Balcer	Ford	McGowan, Miss
Blandford	Gadola	Nord
Bledsoe	Garvin	Norris
Bonisteel	Goebel	Ostrow
Boothby	Gover	Page
Bradley	Greene	Pellow
Brown, G. E.	Habermehl	Richards, L. W.
Brown, T. S.	Hanna, W. F.	Shackleton
Buback	Haskill	Shaffer
Butler, Mrs.	Hatch	Shanahan
Cudlip	Heideman	Sharpe
Cushman, Mrs.	Hodges	Staiger
Danhof	Iverson	Stevens
Dehnke	Judd, Mrs.	Tubbs
Donnelly, Miss	Karn	Turner
Doty, Dean	Kelsey	Upton
Doty, Donald	King	Van Dusen
Durst	Kirk, S.	Wanger
Elliott, A. G.	Knirk, B.	White
Erickson	Koeze, Mrs.	Wood
Everett	Kuhn	Yeager
Finch	Lawrence	Youngblood
Follo	Mahinske	

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Allen, Austin and Brake, the yeas are 57; the nays are 68.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: We have no others on this section.

VICE PRESIDENT HUTCHINSON: There are no further amendments on the secretary's desk. The question is upon the passage of article VI. Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, in supporting this article it is my intention, and I trust the intention of the convention, that the change in the language in section 28 from "workmen's compensation commission" to "workmen's compensation proceedings" was not a matter of substance, not a material change. I make this comment for the record. I believe that the decision of the convention in acting upon the ruling which prevented Delegate Danhof from introducing his amendment to strike this proviso — I interpret this action of the convention as indicating an intention to support the committee on style and drafting in such a way as to determine that there was no change in substance or material change made when style and drafting inserted the word "proceedings" in place of the word "commission." With that construction and intention, I feel I can support this article. If this is not the intention of the convention on the part of other delegates, I would appreciate such delegates so stating.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, have you any speakers other than Mr. Ford seeking recognition?

VICE PRESIDENT HUTCHINSON: Yes, I have one other.

MR. VAN DUSEN: I would move to limit debate on the article to 5 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate upon the article to 5 minutes, all those in favor will say aye. Opposed, no.

The motion prevails. Debate is limited. The Chair next recognizes Mr. Prettie.

MR. PRETTIE: Mr. President and fellow delegates, I decided to become a candidate for delegate to this convention because I was deeply concerned about the present inconsistent method of electing supreme court justices. When I campaigned I told my constituents that, among other things, I would work to make our courts truly nonpartisan at all levels. I did work hard and long to accomplish this result and many of you worked with me and I appreciate your support, but we failed to get enough votes to accomplish this, not by a vote of 2 to 1 or 3 to 1 but by a very narrow margin. Other equally sincere delegates to this convention, equally concerned with an honest court structure, came to this convention pledged to work for the adoption of the ABA plan for selecting our judges. They had committed themselves to this plan and gave not only of their time but of their substance to present the merits of this plan. They, too, I am sure, are disappointed.

We have a judicial article, unfortunately, that continues the unhappy influence of party politics at the highest echelon of our court structure, and many other batters are not fully satisfied with what we have done here. My personal batting average on my own promises to my constituents is probably not even half of 87.9 per cent, but that is beside the point.

I shall not urge a no vote on this article merely because my views did not prevail. I shall not return to my district and urge voters to reject this document because many of its provisions are not to their liking or to mine. I shall endeavor to explain that this is the product of the democratic process. It is the result of the working together of 144 honest and sincere women and men possessed of integrity and wisdom but also of diverse points of view. Long hours of debate on this floor have forged this document. It is not a result of any clandestine accommodations. I shall point out that our labors of 7½ months are typical of the inefficiency of our form of government but that this slow and tedious process and its sometimes imperfect results are at once the weakness and the strength of the best form of government the mind of man has yet developed.

In spite of personal frustration I shall vote to adopt this article. I urge the scores of delegates who share my views to do the same. I urge those who failed in their efforts to write the ABA plan into the judicial article to put aside their disappointment and vote for it. It is my hope that this greatly improved court structure for this state will be approved not by a vote of 3 to 1 but by a resounding and substantially unanimous vote. (applause)

VICE PRESIDENT HUTCHINSON: Mr. Ford.

MR. FORD: I appreciate Mr. Prettie's point of view. Although I haven't always agreed with him, I have enjoyed working with him on the judiciary committee and it is not easy for me to say what I am going to say now without sounding like I am being a dog in the manger but, believe me, in sincerity, this is not what I am trying to do and I am not trying to impose, at this point, my point of view on anyone else. I am trying to express my own point of view and the reason for voting the way I am going to vote.

As has been said before, by the chairman of our committee on this floor, the judiciary system in Michigan and its present status was not one of the compelling reasons for the calling of this convention. Our present judicial system is superior in all ways. It ranks in the view of people outside of the state amongst the top 3 states in the entire country inasmuch as we have a system that has been completely free from scandal and is as close to efficiency as you are ever going to get in a democratic system of courts.

I cannot support the article as we have now written it because I do not honestly believe that it is an improvement over the 1908 constitution, as amended. If we had truly made the kind of improvements that Mr. Prettie alludes to, I think it would be entirely a different thing. There are 2 or 3 things in the article that are new but they are not constitutional matters to begin with and they do not justify either the time spent by this

convention nor do we face the prospect of losing them if this particular section is not incorporated into the new constitution to replace what we presently have. The outstanding example of that is the appellate —

VICE PRESIDENT HUTCHINSON: Time for debate has expired.

MR. VAN DUSEN: Mr. President, I would move to extend debate for an additional 3 minutes to permit Mr. Ford to complete his remarks.

VICE PRESIDENT HUTCHINSON: Mr. Ford and Mr. Danhof both seek recognition.

MR. VAN DUSEN: I guess we had better make it 5 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to extend debate by 5 minutes upon the article. All those in favor will say aye. Opposed, no.

The motion prevails. Mr. Ford may continue.

MR. FORD: The appellate court at first glance seems to be an improvement and everybody in this room, I think, agrees that we should have an appellate court. However, I might remind you that the legislature had already perfected and was ready to bring out of the committee over there an appellate court system and would do the same tomorrow if it were not for the pending action of this convention at the present time. There is nothing in here with regard to the appellate court that is constitutional to the exclusion of all other considerations, and what we have accomplished here could just as well have been done across the street.

The filling of vacancies is something we have talked about and we have passed over. It is something that is of very great importance, and the more I have talked to fellow attorneys and the people back in the area that I represent, the more I am concerned with how serious this particular aspect is and how quickly we have passed over it.

The section that we just finished discussing a few moments ago bears absolutely no resemblance to the language that was originally proposed to the judiciary committee by Mr. Cooper and others who first brought the matter forcibly to our attention, and bears little or no resemblance to the work that was put into it by the judiciary committee.

The local court system has been placed — by reason of the fact that many people, for whatever their reasons, came to this convention with preconceived prejudices in this respect — in a status now where very few people at the local level have any confidence or any prospect of hope as to the continued existence of the autonomy of their local courts as they know them now. I think that the section with respect to local courts places in jeopardy a long standing traditional system in this state.

I think that we have, for all intents and purposes, destroyed the 5 tier system that we started out with in the judiciary committee and, again, this was not the judiciary committee that did it. It was done here on the floor. There is no longer a separate and distinct probate court as a constitutional matter. We now have a 3 court system with a conglomerate of the 2 last tiers that the judiciary committee contemplated. You can now merge all or any part of the functions of these lower courts to the end that all or part of them will be extinguished. We set out to set up a 5 tier court system which, in my opinion, would have been a distinct improvement and the one thing that we could have done by constitution that may have been a great improvement over what the legislature might have done, but we failed in this respect. For that reason I don't feel that I can support the article as it now reads.

VICE PRESIDENT HUTCHINSON: Mr. Danhof.

MR. DANHOF: Mr. President and fellow delegates, I am very happy to endorse the words of Mr. Prettie. We did have on the floor of this particular convention a long and tedious debate on the judicial article. With 58 and now 59 or 60 lawyers, this was probably inevitable. But I think he has pointed out what has been the thinking, at least, of a majority of us. I am sorry to hear the words of my good friend, Bill Ford, who was of great assistance in the committee. I think we have retained an elective system of the judiciary. We have established an intermediate court of appeals. And I point out that it was not really until this constitutional convention got going that we got real action across the street, and this is not in derogation of those gentlemen.

I think we have strengthened the circuit courts, the probate courts. We have made great strides and have provided a system which, I am sure, will last the people of this state for a good 50 or 75 years or whenever we call another convention. We have allowed the legislature greater leeway. This, I think, is an advantage and not a disadvantage. I would hope that we would pass the article. I point out to you that we have had more hours of debate on this than on any other particular article. I urge your support. Thank you.

VICE PRESIDENT HUTCHINSON: Time has expired. The question is upon the passage of article VI on the judicial branch. All 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—103

Allen	Gust	Pollock
Andrus, Miss	Habermehl	Powell
Anspach	Hanna, W. F.	Prettie
Balcer	Hannah, J. A.	Pugsley
Barthwell	Haskill	Radka
Batchelor	Hatch	Rajkovich
Beaman	Heideman	Richards, J. B.
Bentley	Higgs	Richards, L. W.
Blandford	Howes	Romney
Bledsoe	Hoxie	Rood
Bonisteel	Hubbs	Rush
Boothby	Hutchinson	Seyferth
Bradley	Iverson	Shackleton
Brake	Judd, Mrs.	Shaffer
Brown, G. E.	Karn	Shanahan
Butler, Mrs.	King	Sharpe
Cudlip	Kirk, S.	Sleder
Cushman, Mrs.	Knirk, B.	Spitler
Danhof	Koeze, Mrs.	Stafseth
Dell	Kuhn	Staiger
DeVries	Lawrence	Sterrett
Donnelly, Miss	Leibrand	Stevens
Doty, Dean	Leppien	Suzore
Doty, Donald	Lesinski	Thomson
Durst	Mahinske	Tubbs
Elliott, A. G.	Martin	Turner
Erickson	McCauley	Tweedie
Everett	McGowan, Miss	Upton
Farnsworth	McLogan	Van Dusen
Figy	Millard	Wanger
Finch	Mosier	White
Follo	Page	Wood
Gadola	Perras	Woolfenden
Goebel	Plank	Yeager
Gover		

Nays—33

Austin	Garvin	Nord
Baginski	Greene	Norris
Binkowski	Hart, Miss	Ostrow
Brown, T. S.	Hodges	Pellow
Buback	Jones	Perlich
Dade	Kelsey	Sablich
Dehnke	Krolikowski	Snyder
Downs	Madar	Stopczynski
Elliott, Mrs. Daisy	Marshall	Wilkowski
Faxon	McAllister	Young
Ford	Murphy	Youngblood

SECRETARY CHASE: On the passage of article VI, the judicial branch, the yeas are 103; the nays are 33.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted in favor thereof, **article VI,** as amended, is passed.

For sections 1 through 7, 9 through 25, 27, 28 and 29 of article VI as passed, see above, page 3060.

Following is section 8 of article VI as amended and passed:

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 near as possible of equal population, as 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 changed by law.

Following is section 26 of article VI as amended and passed:

Sec. 26. The offices of circuit court commissioner and justice of the peace shall be 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.

Following is explanation of vote submitted by Mr. McAllister:

My reason for voting no on article VI, the judicial article, is that I believe the provisions of the present constitution are better than the provisions of the new article.

Following is explanation of vote submitted by Messrs. Krolikowski, Binkowski, Garvin, Madar, Ford, Downs and Miss Hart:

We voted no on article VI because Michigan's traditional judicial system has stood the test of time in the basic matter of selection of judges. Michigan's judiciary has a nationwide reputation for ability, integrity and efficiency.

Michigan's judicial system provides that when a vacancy occurs the governor appoints a judge to serve until the next election. At the next election that judge who was temporarily appointed must run against any other candidates nominated by the people, either through petition or by convention, as in the case of the supreme court.

Article VI as adopted removes the governor's right to select the judge on a temporary basis — a system that is proven in practice to have the best of the appointed and the elected systems. The proponents of this change did not prove their need for changing the historically satisfactory method.

Another severe weakness was a constitutional provision in section 28 for appeals from administrative agencies. Present appeals are handled either by general law or specific statute affecting specially created agencies. This proposal has a constitutional, rigid appeal system that could, in effect, make one who wins his case before the administrative tribunal for all intents and purposes go before a court and win his case all over again. This is frustrating, expensive and time-consuming for litigants as well as courts.

We believe that the proposed judicial article does not contain sufficient improvement over the present judicial system to justify replacing the 1908 constitution, as amended. Any improvements found in the article may and should be accomplished by statutory enactment.

We believe that these 2 changes alone are significant steps backward from Michigan's present constitution, and we therefore voted no on article VI — judicial branch.

VICE PRESIDENT HUTCHINSON (continuing): The secretary will read article VII, local government.

SECRETARY CHASE: **Article VII,** local government:

[Article VII, sections 1 through 33, was read by the secretary. For text, see above, page 3063.]

VICE PRESIDENT HUTCHINSON: Article VII 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 VII of the proposed revision of the constitution:

section	column	line	Corrections
10	2	29	After "be" remove brackets around "re".
10	2	30	After "to be" insert brackets as follows "[re]".
17	1	27	After "law" insert "[" before "and".
17	1	28	After "constitution" insert "]".
20	1	45	After "provide" insert "by law".
24	2	27	After "own" insert "[,]".
24	2	30	After "disposal" delete "[,]".
30	1	55	After "a" insert "[longer]".
30	1	56	Change "longer" to "LONGER".

VICE PRESIDENT HUTCHINSON: Without objection it is so ordered. [Corrections made above.] The secretary will report an amendment.

SECRETARY CHASE: Messrs. Sharpe and Kuhn offer the following amendment:

1. Amend article VII, section 21 (column 2, line 6) after "law.", by inserting "No governmental subdivision of the state shall impose an income tax unless approved by three-fifths of the qualified electors voting on the question.".

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHIINSON: Mr. Van Dusen.

MR. VAN DUSEN: The substance of this amendment has been debated at some length before and I would move at this time to limit debate on this amendment to 10 minutes.

VICE PRESIDENT HUTCHINSON: The question is on the motion to limit debate to 10 minutes. All those in favor will say aye. Opposed will say no.

The motion prevails. Mr. Brown.

MR. G. E. BROWN: Point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: State your point.

MR. G. E. BROWN: The exact language that is presently proposed was offered on second reading except that instead of a majority of the qualified electors, 3/5 has now been added and changed. I think in substance this is the same. When you make the requirement more stringent than failed to pass before, I don't think you have a different matter before you and I would refer you to journal page 999.

VICE PRESIDENT HUTCHINSON: Well, the Chair would be disposed to rule and does rule that this presents a different question. The body has not heretofore considered the matter of a 60 per cent on this thing. Mr. Kuhn.

MR. KUHN: Mr. President and members of the convention, once again we come to you and ask you to consider the question of whether or not a governmental subdivision shall authorize an income tax without a vote of its people. Now it has been argued that this is legislative in nature, and when the Bowman bill passed the legislature you had a pretty strong argument. But since the governor in his wisdom saw fit to veto this bill, I think it now presents the same question that has been raised by many delegates who have things that they felt were necessary to be in this constitution; for example, the civil rights commission, civil service, and things of that nature. We know that those are legislative matters and yet we thought they should be in the constitution, because the legislature did not provide for them. We therefore strongly urge that the delegates to this convention decide this issue for the people and put it in the constitution.

MR. W. F. HANNA: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hanna.

MR. W. F. HANNA: I rise to a point of order. I challenge the germaneness of this proposed amendment to this section. Section 21 of local government is the historical local government article dealing with home rule cities and villages and the reference to tax laws in there are to cities and villages as they may put in their charters for municipal purposes and public purposes.

The amendment says "No governmental subdivison" which would cover school districts, charter or other authorities, town-

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

PREAMBLE

We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

Article I

Declaration of Rights

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation.

Sec. 3. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances.

Sec. 4. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Sec. 5. Every person may freely speak, write, express and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be enacted to restrain or abridge the liberty of speech or of the press.

Sec. 6. Every person has a right to keep and bear arms for the defense of himself and the state.

Sec. 7. The military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 8. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sec. 9. Neither slavery, nor involuntary servitude unless for the punishment of crime, shall ever be tolerated in this state.

Sec. 10. No bill of attainder, ex post facto law or law impairing the obligation of contract shall be enacted.

Sec. 11. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation. The provisions of this section shall not be construed to bar from evidence in any criminal proceeding any narcotic drug, firearm, bomb, explosive or any other dangerous weapon, seized by a peace officer outside the curtilage of any dwelling house in this state.

Sec. 12. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

Sec. 13. A suitor in any court of this state has the right to prosecute or defend his suit,

either in his own proper person or by an attorney.

Sec. 14. The right of trial by jury shall remain, but shall be waived in all civil cases unless demanded by one of the parties in the manner prescribed by law. In all civil cases tried by 12 jurors a verdict shall be received when 10 jurors agree.

Sec. 15. No person shall be subject for the same offense to be twice put in jeopardy. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

Sec. 16. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

Sec. 18. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sec. 19. In all prosecutions for libels the truth may be given in evidence to the jury; and, if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

Sec. 20. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 jurors in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; to have an appeal as a matter of right; and in courts of record, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

Sec. 21. No person shall be imprisoned for debt arising out of or founded on contract, express or implied, except in cases of fraud or breach of trust.

Sec. 22. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act or on confession in open court.

Sec. 23. The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Article II
Elections

Sec. 1. Every citizen of the United States who has attained the age of 21 years, who has resided in this state six months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

Sec. 2. The legislature may by law exclude persons from voting because of mental incompetence or commitment to a jail or penal institution.

Sec. 3. For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than six months and may waive residence requirements for former citizens of this state who have removed herefrom. The legislature shall not permit voting by any person who meets the voting residence requirements of the state to which he has removed.

Sec. 4. The legislature shall enact laws to regulate the time, place and manner of all nominations and elections, except as otherwise provided in this constitution or in the constitution and laws of the United States. The legislature shall enact laws to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames.

Sec. 5. Except for special elections to fill vacancies, or as otherwise provided in this constitution, all elections for national, state, county and township offices shall be held on the first Tuesday after the first Monday in November in each even-numbered year or on such other date as members of the congress of the United States are regularly elected.

Sec. 6. Whenever any question is required to be submitted by a political subdivision to the electors which involves the increase of any ad valorem tax rate limitation for a period of more than five years, or the issue of bonds, only electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or electors who are the lawful husbands or wives of such persons shall be entitled to vote thereon. All electors in the district or territory affected may vote on all other questions.

Sec. 7. A board of state canvassers of four

members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers. A majority of any board of canvassers shall not be composed of members of the same political party.

Sec. 8. Laws shall be enacted to provide for the recall of all elective officers except judges of courts of record upon petition of electors equal in number to 25 percent of the number of persons voting in the last preceding election for the office of governor in the electoral district of the officer sought to be recalled. The sufficiency of any statement of reasons or grounds procedurally required shall be a political rather than a judicial question.

Sec. 9. The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to approve or reject laws enacted by the legislature, called the referendum. The power of initiative extends only to laws which the legislature may enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds and must be invoked in the manner prescribed by law within 90 days following the final adjournment of the legislative session at which the law was enacted. To invoke the initiative or referendum, petitions signed by a number of registered electors, not less than eight percent for initiative and five percent for referendum of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected shall be required.

No law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election.

Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If the law so proposed is not enacted by the legislature within the 40 days, the state officer authorized by law shall submit such proposed law to the people for approval or rejection at the next general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by such state officer to the electors for approval or rejection at the next general election.

Any law submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No law initiated or adopted by the people shall be subject to the veto power of the governor, and no law adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors or three-fourths of the members elected to and serving in each house of the legislature. Laws approved by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. If two or more measures approved by the electors at the same election conflict, that receiving the highest affirmative vote shall prevail.

The legislature shall implement the provisions of this section.

Article III
General Government

Sec. 1. The seat of government shall be at Lansing.

Sec. 2. The powers of government are divided into three branches: legislative, executive and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.

Sec. 3. There shall be a great seal of the State of Michigan and its use shall be provided by law.

Sec. 4. The militia shall be organized, equipped and disciplined as provided by law.

Sec. 5. Subject to provisions of general law, this state or any political subdivision, any governmental authority or any combination thereof may enter into agreements for the performance, financing or execution of their respective functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution. Any other provision of this constitution notwithstanding, an officer or employee of the state or of any such unit of government or subdivision or agency thereof may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service. The legislature may impose such restrictions, limitations or conditions on such service as it may deem appropriate.

Sec. 6. The state shall not be a party to, nor be financially interested in, any work of internal improvement, nor engage in carrying on any such work, except for public internal improvements provided by law.

Sec. 7. The common law and the statute laws now in force, not repugnant to this consti-

tution, shall remain in force until they expire by their own limitations, or are changed, amended or repealed.

Sec. 8. Either house of the legislature or the governor may request the opinion of the supreme court on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date.

Article IV
Legislative Branch

Sec. 1. The legislative power of the State of Michigan is vested in a senate and a house of representatives.

Sec. 2. The senate shall consist of 38 members to be elected from single member districts at the same election as the governor for four-year terms concurrent with the term of office of the governor.

In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned an apportionment factor equal to the sum of its percentage of the state's population as shown by the last regular federal decennial census computed to the nearest one-one hundredth of one percent multiplied by four and its percentage of the state's land area computed to the nearest one-one hundredth of one percent.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties is entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.

(2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there is a failure to comply with the above standards.

(3) Counties entitled to two or more senate districts shall be divided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

Sec. 3. The house of representatives shall consist of 110 members elected for two-year terms from single member districts apportioned on a basis of population as provided in this article. The districts shall consist of compact and convenient territory contiguous by land.

Each county which has a population of not less than seven-tenths of one percent of the population of the state shall constitute a separate representative area. Each county having less than seven-tenths of one percent of the population of the state shall be combined with another county or counties to form a representative area of not less than seven-tenths of one percent of the population of the state. Any county which is isolated under the initial allocation as provided in this section shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one representative.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to two or more representatives shall be divided into single member representative districts as follows:

(1) The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the representative area by the number of representatives to which it is entitled.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population adhering to county lines.

Sec. 4. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial dis-

trict in the city with which it is combined, if provided by ordinance of the city. The district or districts with which the territory shall be combined shall be determined by such ordinance certified to the secretary of state. No such change in the boundaries of a representative or senatorial district shall have the effect of removing a legislator from office during his term.

Sec. 5. Island areas are considered to be contiguous by land to the county of which they are a part.

Sec. 6. A commission on legislative apportionment is hereby established consisting of eight persons, four of whom shall be selected by the state organizations of each of the two political parties whose candidates for governor received the highest vote at the last general election at which a governor was elected preceding each apportionment. If a candidate for governor of a third political party has received at such election more than 25 percent of such gubernatorial vote, the commission shall consist of 12 members, four of whom shall be selected by the state organization of the third political party. One member of the commission shall be selected by each political party organization from each of the following four regions: (1) The upper peninsula; (2) The northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) Southwestern Michigan, those counties south of region (2) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) Southeastern Michigan, the remaining counties of the state.

No officers or employees of the federal, state or local governments, excepting notaries public and members of the armed forces reserve, shall be eligible for membership on the commission. Members of the commission shall not be eligible for election to the legislature until two years after the apportionment in which they participated becomes effective.

The commission shall be appointed immediately after the adoption of this constitution and whenever apportionment or districting of the legislature is required by the provisions of this constitution. Members of the commission shall hold office until each apportionment or districting plan becomes effective. Vacancies shall be filled in the same manner as for original appointment.

The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman, shall make its own rules of procedure, and shall receive compensation provided by law. The legislature shall appropriate funds to enable the commission to carry out its activities.

Within 30 days after the adoption of this constitution, and after the official total population count of each federal decennial census of the state and its political subdivisions is available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to district and apportion the senate and house of representatives according to the provisions of this constitution. All final decisions shall require the concurrence of a majority of the members of the commission. The commission shall hold public hearings as may be provided by law.

Each final apportionment and districting plan shall be published as provided by law within 30 days from the date of its adoption and shall become law 60 days after publication. The secretary of state shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of each plan.

If a majority of the commission cannot agree on a plan, each member of the commission, individually or jointly with other members, may submit a proposed plan to the supreme court. The supreme court shall determine which plan complies most accurately with the constitutional requirements and shall direct that it be adopted by the commission and published as provided in this section.

Upon the application of any elector filed not later than 60 days after final publication of the plan, the supreme court, in the exercise of original jurisdiction, shall direct the secretary of state or the apportionment commission to perform their duties, may review any final plan adopted by the commission, and shall remand such plan to the commission for further action if it fails to comply with the requirements of this constitution.

Sec. 7. Each senator and representative must be a citizen of the United States, at least 21 years of age, and an elector of the district he represents. The removal of his domicile from the district shall be deemed a vacation of the office. No person who has been convicted of subversion or who has within the preceding 20 years been convicted of a felony involving a breach of public trust shall be eligible for either house of the legislature.

Sec. 8. No person holding any office under the United States or this state or a political subdivision thereof, except notaries public and officers of the armed forces reserve, may be a member of either house of the legislature.

Sec. 9. No person elected to the legislature shall receive any civil appointment within this

state from the governor, except notaries public, from the legislature, or from any other state authority, during the term for which he is elected.

Sec. 10. No member of the legislature nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest. The legislature shall further implement this provision by appropriate legislation.

Sec. 11. Senators and representatives shall be privileged from civil arrest and civil process during sessions of the legislature and for five days next before the commencement and after the termination thereof. They shall not be questioned in any other place for any speech in either house.

Sec. 12. The compensation and expense allowances of the members of the legislature shall be determined by law. Changes in compensation or expense allowances shall become effective only when legislators commence their terms of office after a general election.

Sec. 13. The legislature shall meet at the seat of government on the second Wednesday in January of each year at twelve o'clock noon. Each regular session shall adjourn without day, on a day determined by concurrent resolution, at twelve o'clock noon. Any business, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next regular session.

Sec. 14. A majority of the members elected to and serving in each house shall constitute a quorum to do business. A smaller number in each house may adjourn from day to day, and may compel the attendance of absent members in the manner and with penalties as each house may prescribe.

Sec. 15. There shall be a bi-partisan legislative council consisting of legislators appointed in the manner prescribed by law. The legislature shall appropriate funds for the council's operations and provide for its staff which shall maintain bill drafting, research and other services for the members of the legislature. The council shall periodically examine and recommend to the legislature revision of the various laws of the state.

Sec. 16. Each house, except as otherwise provided in this constitution, shall choose its own officers and determine the rules of its proceedings, but shall not adopt any rule that will prevent a majority of the members elected thereto and serving therein from discharging a committee from the further consideration of any measure. Each house shall be the sole judge of the qualifications, elections and returns of its members, and may, with the concurrence of two-thirds of all the members elected thereto and serving therein, expel a member. The reasons for such expulsion shall be entered in the journal, with the votes and names of the members voting upon the question. No member shall be expelled a second time for the same cause.

Sec. 17. Each house of the legislature may establish the committees necessary for the efficient conduct of its business and the legislature may create joint committees. Each committee shall by roll call vote record the vote and name of all action on bills and resolutions taken in the committee. Such vote shall be available for public inspection. Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in the journal in advance of the hearing.

Sec. 18. Each house shall keep a journal of its proceedings, and publish the same unless the public security otherwise requires. The record of the vote and name of the members of either house voting on any question shall be entered in the journal at the request of one-fifth of the members present. Any member of either house may dissent from and protest against any act, proceeding or resolution which he deems injurious to any person or the public, and have the reason for his dissent entered in the journal.

Sec. 19. All elections in either house or in joint convention and all votes on appointments submitted to the senate for advice and consent shall be published by vote and name in the journal.

Sec. 20. The doors of each house shall be open unless the public security otherwise requires.

Sec. 21. Neither house shall, without the consent of the other, adjourn for more than two intervening calendar days, nor to any place other than where the legislature may then be in session.

Sec. 22. All legislation shall be by bill and may originate in either house.

Sec. 23. The style of the laws shall be: The People of the State of Michigan enact.

Sec. 24. No law shall embrace more than one object, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title.

Sec. 25. No law shall be revised, altered or amended by reference to its title only. The section or sections of the act altered or amended shall be re-enacted and published at length.

Sec. 26. No bill shall be passed or become a law at any regular session of the legislature until it has been printed or reproduced and in the possession of each house for at least five days. Every bill shall be read three times in each house before the final passage thereof. No bill shall become a law without the concurrence of a majority of the members elected to and serving in each

house. On the final passage of bills, the votes and names of the members voting thereon shall be entered in the journal.

Sec. 27. No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.

Sec. 28. When the legislature is convened on extraordinary occasions in special session no bill shall be passed on any subjects other than those expressly stated in the governor's proclamation or submitted by special message.

Sec. 29. The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act shall take effect until approved by two-thirds of the members elected to and serving in each house and by a majority of the electors voting thereon in the district affected. Any act repealing local or special acts shall require only a majority of the members elected to and serving in each house and shall not require submission to the electors of such district.

Sec. 30. The assent of two-thirds of the members elected to and serving in each house of the legislature shall be required for the appropriation of public money or property for local or private purposes.

Sec. 31. The general appropriation bills for the succeeding fiscal period covering items set forth in the budget shall be passed or rejected in either house of the legislature before that house passes any appropriation bill for items not in the budget except bills supplementing appropriations for the current fiscal year's operation. Any bill requiring an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as passed by the legislature shall contain an itemized statement of estimated revenue by major source in each operating fund for the ensuing fiscal period, the total of which shall not be less than the total of all appropriations made from each fund in the general appropriation bills as passed.

Sec. 32. Every law which imposes, continues or revives a tax shall distinctly state the tax.

Sec. 33. Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he does not approve, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated. That house shall enter such objections in full in its journal and reconsider the bill. If two-thirds of the members elected to and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by two-thirds of the members elected to and serving in that house. The vote of each house shall be entered in the journal with the votes and names of the members voting thereon. If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it.

Sec. 34. Any bill passed by the legislature and approved by the governor, except a bill appropriating money, may provide that it will not become law unless approved by a majority of the electors voting thereon.

Sec. 35. All laws enacted at any session of the legislature shall be published in book form within 60 days after final adjournment of the session, and shall be distributed in the manner provided by law. The prompt publication of judicial decisions shall be provided by law. All laws and judicial decisions shall be free for publication by any person.

Sec. 36. No general revision of the laws shall be made. The legislature may provide for a compilation of the laws in force, arranged without alteration, under appropriate heads and titles.

Sec. 37. The legislature may by concurrent resolution empower a joint committee of the legislature acting between sessions to suspend until the end of the next regular legislative session any rule or regulation of an administrative agency promulgated when the legislature is not in regular session.

Sec. 38. The legislature may provide by law the cases in which any office shall be vacant and the manner of filling vacancies where no provision is made in this constitution.

Sec. 39. In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state caused by enemy attack on the United States, the legislature may provide by law for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices; and enact other laws necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred by this section, elections shall always

be called as soon as possible to fill any vacancies in elective offices temporarily occupied by operation of any legislation enacted pursuant to the provisions of this section.

Sec. 40. The legislature may by law establish a liquor control commission which, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof. The legislature may provide for an excise tax on such sales. Neither the legislature nor the commission may authorize the manufacture or sale of alcoholic beverages in any county in which a majority of the electors voting thereon shall prohibit the same.

Sec. 41. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

Sec. 42. The legislature may provide for the incorporation of ports and port districts, and confer power and authority upon them to engage in work of internal improvements in connection therewith.

Sec. 43. No general law providing for the incorporation of trust companies or corporations for banking purposes, or regulating the business thereof, shall be enacted, amended or repealed except by a vote of two-thirds of the members elected to and serving in each house.

Sec. 44. The legislature may authorize a trial by a jury of less than 12 jurors in civil cases.

Sec. 45. The legislature may provide for indeterminate sentences as punishment for crime and for the detention and release of persons imprisoned or detained under such sentences.

Sec. 46. No law shall be enacted providing for the penalty of death.

Sec. 47. The legislature may authorize the employment of chaplains in state institutions of detention or confinement.

Sec. 48. The legislature may enact laws providing for the resolution of disputes concerning public employees, except those in the state classified civil service.

Sec. 49. The legislature may enact laws relative to the hours and conditions of employment.

Sec. 50. The legislature may provide safety measures and regulate the use of atomic energy and forms of energy developed in the future, having in view the general welfare of the people of this state.

Sec. 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

Sec. 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction.

Sec. 53. The legislature by a majority vote of the members elected to and serving in each house, shall appoint an auditor general, who shall be a certified public accountant licensed to practice in this state, to serve for a term of eight years. He shall be ineligible for appointment or election to any other public office in this state from which compensation is derived while serving as auditor general and for two years following the termination of his service. He may be removed for cause at any time by a two-thirds vote of the members elected to and serving in each house. The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

The auditor general upon direction by the legislature may employ independent accounting firms or legal counsel and may make investigations pertinent to the conduct of audits. He shall report annually to the legislature and to the governor and at such other times as he deems necessary or as required by the legislature. He shall be assigned no duties other than those specified in this section.

Nothing in this section shall be construed in any way to infringe the responsibility and constitutional authority of the governing boards of the institutions of higher education to be solely responsible for the control and direction of all expenditures from the institutions' funds.

The auditor general, his deputy and one other member of his staff shall be exempt from classified civil service. All other members of his staff shall have classified civil service status.

Article V
Executive Branch

Sec. 1. The executive power is vested in the governor.

Sec. 2. All executive and administrative offices, agencies and instrumentalities of the executive branch of state government and their respective functions, powers and duties, except for the office of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes.

Subsequent to the initial allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these

changes require the force of law, they shall be set forth in executive orders and submitted to the legislature. Thereafter the legislature shall have 60 calendar days of a regular session, or a full session if of shorter duration, to disapprove each executive order. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, each order shall become effective at a date thereafter to be designated by the governor.

Sec. 3. The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer and an attorney general. When a single executive is the head of a principal department, unless elected or appointed as otherwise provided in this constitution, he shall be appointed by the governor by and with the advice and consent of the senate and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, unless elected or appointed as otherwise provided in this constitution, the members thereof shall be appointed by the governor by and with the advice and consent of the senate. The term of office and procedure for removal of such members shall be as prescribed in this constitution or by law.

Terms of office of any board or commission created or enlarged after the effective date of this constitution shall not exceed four years except as otherwise authorized in this constitution. The terms of office of existing boards and commissions which are longer than four years shall not be further extended except as provided in this constitution.

Sec. 4. Temporary commissions or agencies for special purposes with a life of no more than two years may be established by law and need not be allocated within a principal department.

Sec. 5. At no time shall an examining or licensing board of a profession include less than a majority of members of that profession.

Sec. 6. Appointment by and with the advice and consent of the senate when used in this constitution or laws in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 session days after the date of such appointment. Any appointment not disapproved within such period shall stand confirmed.

Sec. 7. Vacancies in any office, appointment to which requires advice and consent of the senate, shall be filled by the governor by and with the advice and consent of the senate. A person whose appointment has been disapproved by the senate shall not be eligible for an interim appointment to the same office.

Sec. 8. Each principal department shall be under the supervision of the governor unless otherwise provided by this constitution. The governor shall take care that the laws be faithfully executed. He shall transact all necessary business with the officers of government and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may initiate court proceedings in the name of the state to enforce compliance with any constitutional or legislative mandate, or to restrain violations of any constitutional or legislative power, duty or right by any officer, department or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize court proceedings against the legislature.

Sec. 9. Single executives heading principal departments and the chief executive officers of principal departments headed by boards or commissions shall keep their offices at the seat of government except as otherwise provided by law, superintend them in person and perform duties prescribed by law.

Sec. 10. The governor shall have power and it shall be his duty to inquire into the condition and administration of any public office and the acts of any public officer, elective or appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or for any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and shall report the reasons for such removal or suspension to the legislature.

Sec. 11. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an appointed or elected officer, other than a legislative or judicial officer, until he is reinstated or until the vacancy is filled in the manner prescribed by law or this constitution.

Sec. 12. The governor shall be commander-in-chief of the armed forces and may call them out to execute the laws, suppress insurrection and repel invasion.

Sec. 13. The governor shall issue writs of election to fill vacancies in the senate or house of representatives. Any such election shall be held in a manner prescribed by law.

Sec. 14. The governor shall have power to grant reprieves, commutations and pardons after convictions for all offenses, except cases of impeachment, upon such conditions and limitations as he may direct, subject to procedures and regulations prescribed by law. He shall inform the legislature annually of each reprieve, commutation and pardon granted, stating reasons

therefor.

Sec. 15. The governor may convene the legislature on extraordinary occasions.

Sec. 16. The governor may convene the legislature at some other place when the seat of government becomes dangerous from any cause.

Sec. 17. The governor shall communicate by message to the legislature at the beginning of each session and may at other times present to the legislature information as to the affairs of the state and recommend measures he considers necessary or desirable.

Sec. 18. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, for all operating funds, the proposed expenditures and estimated revenue of the state. Proposed expenditures from any fund shall not exceed the estimated revenue thereof. On the same date, the governor shall submit to the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills to provide new or additional revenues to meet proposed expenditures. The amount of any surplus created or deficit incurred in any fund during the last preceding fiscal period shall be entered as an item in the budget and in one of the appropriation bills. The governor may submit amendments to appropriation bills to be offered in either house during consideration of the bill by that house, and shall submit any bills to meet deficiencies in current appropriations.

Sec. 19. The governor may disapprove any distinct item or items appropriating moneys in any appropriation bill. The part or parts approved shall become law, and the item or items disapproved shall be void unless re-passed according to the method prescribed for the passage of other bills over the executive veto.

Sec. 20. No appropriation shall be a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures authorized by appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based. Reductions in expenditures shall be made in accordance with procedures prescribed by law. The governor may not reduce expenditures of the legislative and judicial branches or from funds constitutionally dedicated for specific purposes.

Sec. 21. The governor, lieutenant governor, secretary of state and attorney general shall be elected for four-year terms at the general election in each alternate even-numbered year.

The lieutenant governor, secretary of state and attorney general shall be nominated by party conventions in a manner prescribed by law. In the general election one vote shall be cast jointly for the candidates for governor and lieutenant governor nominated by the same party.

Vacancies in the office of the secretary of state and attorney general shall be filled by appointment by the governor.

Sec. 22. To be eligible for the office of governor or lieutenant governor a person must have attained the age of 30 years, and have been a registered elector in this state for four years next preceding his election.

Sec. 23. The governor, lieutenant governor, secretary of state and attorney general shall each receive the compensation provided by law in full payment for all services performed and expenses incurred during his term of office. Such compensation shall not be changed during the term of office except as otherwise provided in this constitution.

Sec. 24. An executive residence suitably furnished shall be provided at the seat of government for the use of the governor. He shall receive an allowance for its maintenance as provided by law.

Sec. 25. The lieutenant governor shall be president of the senate, but shall have no vote except in case of equal division. He may perform duties requested of him by the governor, but no power vested in the governor shall be delegated.

Sec. 26. In case of the conviction of the governor on impeachment, his removal from office, his resignation or his death, the lieutenant governor, the elected secretary of state, the elected attorney general and such other persons designated by law shall in that order be governor for the remainder of the governor's term.

In case of the death of the governor-elect, the lieutenant governor-elect, the secretary of state-elect, the attorney general-elect and such other persons designated by law shall become governor in that order at the commencement of the governor-elect's term.

If the governor or the person in line of succession to serve as governor is absent from the state, or suffering under an inability, the powers and duties of the office of governor shall devolve in order of precedence until the absence or inability giving rise to the devolution of powers ceases.

The inability of the governor or person acting as governor shall be determined by a majority of the supreme court on joint request of the president pro tempore of the senate and the speaker of the house of representatives. Such determination shall be final and conclusive. The supreme court shall upon its own initiative determine if and when the inability ceases.

Sec. 27. The legislature shall provide that the salary of any state officer while acting as governor shall be equal to that of the governor.

Sec. 28. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction

and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as provided by law.

The state highway commission shall consist of four members, not more than two of whom shall be members of the same political party. They shall be appointed by the governor by and with the advice and consent of the senate for four-year terms, no two of which shall expire in the same year as provided by law.

The state highway commission shall appoint and may remove a state highway director, who shall be a competent highway engineer and administrator. He shall be the principal executive officer of the state highway department and shall be responsible for executing the policy of the state highway commission.

Sec. 29. There is hereby established a civil rights commission which shall consist of eight persons, not more than four of whom shall be members of the same political party, who shall be appointed by the governor, by and with the advice and consent of the senate, for four-year terms not more than two of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

Appeals from final orders of the commission, including cease and desist orders and refusals to issue complaints, shall be tried de novo before the circuit court having jurisdiction provided by law.

Article VI
Judicial Branch

Sec. 1. The judicial power of the state is vested exclusively in one court of justice which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and other courts of limited jurisdiction that the legislature may establish by a two-thirds vote of the members elected to and serving in each house.

Sec. 2. The supreme court shall consist of seven justices elected at non-partisan elections as provided by law. The term of office shall be eight years and not more than two terms of office shall expire at the same time. Nominations for justices of the supreme court shall be in the manner prescribed by law. Any incumbent justice whose term is to expire may become a candidate for re-election by filing an affidavit of candidacy, in the form and manner prescribed by law, not less than 180 days prior to the expiration of his term.

Sec. 3. One justice of the supreme court shall be selected by the court as its chief justice as provided by rules of the court. He shall perform other duties required by the court. The supreme court shall appoint an administrator of the courts and other assistants of the supreme court as may be necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.

Sec. 4. The supreme court shall have general superintending control over all courts; power to issue, hear, and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.

Sec. 5. The supreme court shall by general rules establish, modify, amend and simplify the practice and procedure in all courts of this state. The distinctions between law and equity proceedings shall, as far as practicable, be abolished. The office of master in chancery is prohibited.

Sec. 6. Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent.

Sec. 7. The supreme court may appoint, may remove, and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of moneys appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

Sec. 8. The court of appeals shall consist initially of nine judges who shall be nominated and elected at non-partisan elections from districts drawn on county lines and as nearly as possible of equal population, as provided by law. The

supreme court may prescribe by rule that the court of appeals may sit in divisions and for the terms of court and the times and places thereof. Each such division shall consist of not fewer than three judges. The number of judges comprising the court of appeals may be increased, and the districts from which they are elected may be changed by law.

Sec. 9. Judges of the court of appeals shall hold office for a term of six years and until their successors are elected and qualified. The terms of office for the judges in each district shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 10. The jurisdiction of the court of appeals shall be provided by law and the practice and procedure therein shall be prescribed by rules of the supreme court.

Sec. 11. The state shall be divided into judicial circuits along county lines in each of which there shall be elected one or more circuit judges as provided by law. Sessions of the circuit court shall be held at least four times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or counties within the circuit in which he is elected, and in other circuits as may be provided by rules of the supreme court. The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall be created, altered and discontinued on recommendation of the supreme court to reflect changes in judicial activity. No change in the number of judges or alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.

Sec. 12. Circuit judges shall be nominated and elected at non-partisan elections in the circuit in which they reside, and shall hold office for a term of six years and until their successors are elected and qualified. In circuits having more than one circuit judge their terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 13. The circuit court shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court.

Sec. 14. The clerk of each county organized for judicial purposes or other officer performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such county. The judges of the circuit court may fill a vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions.

Sec. 15. In each county organized for judicial purposes there shall be a probate court. The legislature may create or alter probate court districts of more than one county if approved in each affected county by a majority of the electors voting on the question. The legislature may provide for the combination of the office of probate judge with any judicial office of limited jurisdiction within a county with supplemental salary as provided by law. The jurisdiction, powers and duties of the probate court and of the judges thereof shall be provided by law. They shall have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. 16. One or more judges of probate as provided by law shall be nominated and elected at non-partisan elections in the counties or the probate districts in which they reside and shall hold office for terms of six years and until their successors are elected and qualified. In counties or districts with more than one judge the terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 17. No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or the amount of judicial activity of his office.

Sec. 18. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within a circuit, and of the probate judges within a county or district, shall be uniform, and may be increased, but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

Each of the judges of the circuit court shall receive an annual salary as provided by law. In addition to the salary received from the state, each circuit judge may receive from any county in which he regularly holds court an additional salary as determined from time to time by the board of supervisors of the county. In any county where an additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

Sec. 19. The supreme court, the court of appeals, the circuit court, the probate court and other courts designated as such by the legislature shall be courts of record and each shall have a common seal. Justices and judges of courts of record must be persons who are licensed to practice law in this state. No person shall be elected or appointed to a judicial office after reaching the age of 70 years.

Sec. 20. Whenever a justice or judge removes his domicile beyond the limits of the territory from which he was elected, he shall have vacated his office.

Sec. 21. Any justice or judge of a court of record shall be ineligible to be nominated for or elected to an elective office other than a judicial office during the period of his service and for one year thereafter.

Sec. 22. Any elected judge of the court of appeals, circuit court or probate court may become a candidate in the primary election for the office of which he is the incumbent by filing an affidavit of candidacy in the form and manner prescribed by law.

Sec. 23. A vacancy in the elective office of a judge of any court of record shall be filled at a general or special election as provided by law. The supreme court may authorize persons who have served as judges and who have retired, to perform judicial duties for the limited period of time from the occurrence of the vacancy until the successor is elected and qualified. Such persons shall be ineligible for election to fill the vacancy.

Sec. 24. There shall be printed upon the ballot under the name of each elected incumbent justice or judge who is a candidate for nomination or election to the same office the designation of that office.

Sec. 25. For reasonable cause, which is not sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of two-thirds of the members elected to and serving in each house of the legislature. The cause for removal shall be stated at length in the resolution.

Sec. 26. The offices of circuit court commissioner and justice of the peace are abolished at the expiration of five years from the date this constitution becomes effective or may within this period be abolished by law. Their jurisdiction, compensation and powers within this period shall be as provided by law. Within this five-year period, the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law. The location of such court or courts, and the qualifications, tenure, method of election and salary of the judges of such court or courts, and by what governmental units the judges shall be paid, shall be provided by law, subject to the limitations contained in this Article.

Statutory courts in existence at the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until they are abolished by law.

Sec. 27. The supreme court, the court of appeals, the circuit court, or any justices or judges thereof, shall not exercise any power of appointment to public office except as provided in this constitution.

Sec. 28. All final decisions, findings, rulings and orders of any administrative officer or agency existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights or licenses, shall be subject to direct review by the courts as provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law; and, in cases in which a hearing is required, whether the same are supported by competent, material and substantial evidence on the whole record. Findings of fact in workmen's compensation proceedings shall be conclusive in the absence of fraud unless otherwise provided by law.

Sec. 29. Justices of the supreme court, judges of the court of appeals, circuit judges and other judges as provided by law shall be conservators of the peace within their respective jurisdictions.

Article VII
Local Government

Sec. 1. Each organized county shall be a body corporate with powers and immunities provided by law.

Sec. 2. Any county may frame, adopt, amend or repeal a county charter in a manner and with powers and limitations to be provided by general law, which shall among other things provide for the election of a charter commission. The law may permit the organization of county government in form different from that set forth in this constitution and shall limit the rate of ad valorem property taxation for county purposes, and restrict the powers of charter counties to borrow money and contract debts. Each charter county is hereby granted power to levy other taxes for county purposes subject to limitations and prohibitions set forth in this constitution or law. Subject to law, a county charter may authorize the county through its regularly constituted authority to adopt resolutions and ordinances relating to its concerns.

The board of supervisors by a majority vote of its members may, and upon petition of five percent of the electors shall, place upon the ballot the question of electing a commission to frame a charter.

No county charter shall be adopted, amended or repealed until approved by a majority of electors voting on the question.

Sec. 3. No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed by the United States, unless approved in the manner prescribed by law by a majority of electors voting thereon in each county to be affected.

Sec. 4. There shall be elected for four-year terms in each organized county a sheriff, a county

clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be provided by law. The board of supervisors in any county may combine the offices of county clerk and register of deeds in one office or separate the same at pleasure.

Sec. 5. The sheriff, county clerk, county treasurer and register of deeds shall hold their principal offices at the county seat.

Sec. 6. The sheriff may be required by law to renew his security periodically and in default of giving such security, his office shall be vacant. The county shall never be responsible for his acts, except that the board of supervisors may protect him against claims by prisoners for unintentional injuries received while in his custody. He shall not hold any other office except in civil defense.

Sec. 7. A board of supervisors shall be established in each organized county consisting of one member from each organized township and such representation from cities as provided by law.

Sec. 8. Boards of supervisors shall have legislative, administrative and such other powers and duties as provided by law.

Sec. 9. Boards of supervisors shall have exclusive power to fix the compensation of county officers not otherwise provided by law.

Sec. 10. A county seat once established shall not be removed until the place to which it is proposed to be moved shall be designated by two-thirds of the members of the board of supervisors and a majority of the electors voting thereon shall have approved the proposed location in the manner prescribed by law.

Sec. 11. No county shall incur any indebtedness which shall increase its total debt beyond 10 percent of its assessed valuation.

Sec. 12. A navigable stream shall not be bridged or dammed without permission granted by the board of supervisors of the county as provided by law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and political subdivisions therein.

Sec. 13. Two or more contiguous counties may combine into a single county if approved in each affected county by a majority of the electors voting on the question.

Sec. 14. The board of supervisors of each organized county may organize and consolidate townships under restrictions and limitations provided by law.

Sec. 15. Any county, when authorized by its board of supervisors shall have the authority to enter or to intervene in any action or certificate proceeding involving the services, charges or rates of any privately owned public utility furnishing services or commodities to rate payers within the county.

Sec. 16. The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the state and by the counties and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The legislature may provide the powers and duties of counties in relation to highways, bridges, culverts and airports; may provide for county road commissioners to be appointed or elected, with powers and duties provided by law. The ad valorem property tax imposed for road purposes by any county shall not exceed in any year one-half of one percent of the assessed valuation for the preceding year.

Sec. 17. Each organized township shall be a body corporate with powers and immunities provided by law.

Sec. 18. In each organized township there shall be elected for terms of not less than two nor more than four years as prescribed by law a supervisor, a clerk, a treasurer, and not to exceed four trustees, whose legislative and administrative powers and duties shall be provided by law.

Sec. 19. No organized township shall grant any public utility franchise which is not subject to revocation at the will of the township, unless the proposition shall first have been approved by a majority of the electors of such township voting thereon at a regular or special election.

Sec. 20. The legislature shall provide by law for the dissolution of township government whenever all the territory of an organized township is included within the boundaries of a village or villages notwithstanding that a village may include territory within another organized township and provide by law for the classification of such village or villages as cities.

Sec. 21. The legislature shall provide by general laws for the incorporation of cities and villages. Such laws shall limit their rate of ad valorem property taxation for municipal purposes, and restrict the powers of cities and villages to borrow money and contract debts. Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.

Sec. 22. Under general laws the electors of each city and village shall have the power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village. Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall limit or restrict the general grant of authority conferred by this section.

Sec. 23. Any city or village may acquire, own, establish and maintain, within or without its corporate limits, parks, boulevards, cemeteries, hospitals and all works which involve the public health or safety.

Sec. 24. Subject to this constitution, any city or village may acquire, own or operate, within or without its corporate limits, public service facilities for supplying water, light, heat, power, sewage disposal and transportation to the municipality and the inhabitants thereof.

Any city or village may sell and deliver heat, power or light without its corporate limits in an amount not exceeding 25 percent of that furnished by it within the corporate limits, except as greater amounts may be permitted by law; may sell and deliver water and provide sewage disposal services outside of its corporate limits in such amount as may be determined by the legislative body of the city or village; and may operate transportation lines outside the municipality within such limits as may be prescribed by law.

Sec. 25. No city or village shall acquire any public utility furnishing light, heat or power, or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless the proposition shall first have been approved by three-fifths of the electors voting thereon. No city or village may sell any public utility unless the proposition shall first have been approved by a majority of the electors voting thereon, or a greater number if the charter shall so provide.

Sec. 26. Except as otherwise provided in this constitution, no city or village shall have the power to loan its credit for any private purpose or, except as provided by law, for any public purpose.

Sec. 27. Notwithstanding any other provision of this constitution the legislature may establish in metropolitan areas additional forms of government or authorities with powers, duties and jurisdictions as the legislature shall provide. Wherever possible, such additional forms of government or authorities shall be designed to perform multi-purpose functions rather than a single function.

Sec. 28. The legislature by general law shall authorize two or more counties, townships, cities, villages or districts, or any combination thereof among other things to: enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government; lend their credit to one another or any combination thereof as provided by law in connection with any authorized publicly owned undertaking.

Any other provision of this constitution notwithstanding, an officer or employee of the state or any such unit of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service.

Sec. 29. No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, township, city or village for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, township, city or village; or to transact local business therein without first obtaining a franchise from the township, city or village. Except as otherwise provided in this constitution the right of all counties, townships, cities and villages to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.

Sec. 30. No franchise or license shall be granted by any township, city or village for a period longer than 30 years.

Sec. 31. The legislature shall not vacate or alter any road, street, alley, or public place under the jurisdiction of any county, township, city or village.

Sec. 32. Any county, township, city, village, authority or school district empowered by the legislature or by this constitution to prepare budgets of estimated expenditures and revenues shall adopt such budgets only after a public hearing in a manner prescribed by law.

Sec. 33. Any elected officer of a political subdivision may be removed from office in the manner and for the causes provided by law.

Sec. 34. The provisions of this constitution and law concerning counties, townships, cities and villages shall be liberally construed in their favor. Powers granted to counties and townships by this constitution and by law shall include those fairly implied and not prohibited by this constitution.

Article VIII
Education

Sec. 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Sec. 2. The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.

Sec. 3. Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies. He shall be the principal executive officer of a state department of education which shall have powers and duties provided by law.

The state board of education shall consist of eight members who shall be nominated by party conventions and elected at large for terms of eight years as prescribed by law. The governor shall fill any vacancy by appointment for the unexpired term. The governor shall be ex-officio a member of the state board of education without the right to vote.

The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section.

Sec. 4. The legislature shall appropriate moneys to maintain the university of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, by whatever names such institutions may hereafter be known, and other institutions of higher education established by law. The legislature shall be given an annual accounting of all income and expenditures by each of these educational institutions. Formal sessions of governing boards of such institutions shall be open to the public.

Sec. 5. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. Each board shall have general supervision of its institution and the control and direction of all expenditures from the institution's funds. Each board shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution, be ex-officio a member of the board without the right to vote and preside at meetings of the board. The board of each institution shall consist of eight members who shall hold office for terms of eight years and who shall be elected as provided by law. The governor shall fill board vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as provided by law.

Sec. 6. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. It shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution and be ex-officio a member of the board without the right to vote. The board may elect one of its members or may designate the president, to preside at board meetings. Each board of control shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the governor by and with the advice and consent of the senate. Vacancies shall be filled in like manner.

Sec. 7. The legislature shall provide by law for the establishment and financial support of public community and junior colleges which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the state board of education. Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex-officio a member of this board without the right to vote.

Sec. 8. Institutions, programs, and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally, or otherwise seriously handicapped shall always be fostered and supported.

Sec. 9. The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof. All fines assessed and collected in the several counties, cities and townships for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law.

Article IX
Finance and Taxation

Sec. 1. The legislature shall impose taxes sufficient with other resources to pay the expenses of state government.

Sec. 2. The power of taxation shall never be surrendered, suspended or contracted away.

Sec. 3. The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 percent; and for a system of equalization of assessments. The legislature may provide for alternative means of taxation of designated real and tangible personal property in lieu of general ad valorem taxation. Every tax other than the general ad valorem property tax shall be uniform upon the class or classes on which it operates.

Sec. 4. Property owned and occupied by nonprofit religious or educational organizations and used exclusively for religious or educational purposes, as defined by law, shall be exempt from real and personal property taxes.

Sec. 5. The legislature shall provide for the assessment by the state of the property of those public service businesses assessed by the state at the date this constitution becomes effective, and of other property as designated by the legislature, and for the imposition and collection of taxes thereon. Property assessed by the state shall be assessed at the same proportion of its true cash value as the legislature shall specify for property subject to general ad valorem taxation. The rate of taxation on such property shall be the average rate levied upon other property in this state under the general ad valorem tax law, or, if the legislature provides, the rate of tax applicable to the property of each business enterprise assessed by the state shall be the average rate of ad valorem taxation levied upon other property in all counties in which any of such property is situated.

Sec. 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount; or to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

Sec. 7. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

Sec. 8. The legislature shall not impose a sales tax on retailers at a rate of more than four percent of their gross taxable sales of tangible personal property.

Sec. 9. All specific taxes, except general sales and use taxes and regulatory fees, imposed directly or indirectly on fuels sold or used to propel motor vehicles upon highways and on registered motor vehicles shall, after the payment of necessary collection expenses, be used exclusively for highway purposes as defined by law.

Sec. 10. One-eighth of all taxes imposed on retailers on taxable sales at retail of tangible personal property shall be used exclusively for assistance to townships, cities and villages, on a population basis as provided by law. In determining population the legislature may exclude any portion of the total number of persons who are wards, patients or convicts in any tax supported institution.

Sec. 11. There shall be established a state school aid fund which shall be used exclusively for the support of public education and school

employees' retirement systems, as provided by law. One-half of all taxes imposed on retailers on taxable sales at retail of tangible personal property, and other tax revenues provided by law, shall be dedicated to this fund. Payments from this fund shall be made in full on a scheduled basis, as provided by law.

Sec. 12. No evidence of state indebtedness shall be issued except for debts authorized pursuant to this constitution.

Sec. 13. Public bodies corporate shall have power to borrow money and to issue their securities evidencing debt, subject to this constitution and law.

Sec. 14. To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 percent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

Sec. 15. The state may borrow money for specific purposes in amounts as may be provided by acts of the legislature adopted by a vote of two-thirds of the members elected to and serving in each house, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

Sec. 16. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

If the minimum amount which would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as finally equalized, or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall lend the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall lend to it an amount sufficient to enable the school district to make the payment.

The term "qualified bonds" means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued prior to May 4, 1955, or issued thereafter and qualified as provided by law pursuant to Section 27 or Section 28 of Article X of the Constitution of 1908 or pursuant to this section.

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used toward the repayment of state loans. In any year when such levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Subject to the foregoing provisions, the legislature shall have the power to prescribe and to limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

The power to tax for the payment of principal and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made to school districts, shall be without limitation as to rate or amount.

All rights acquired under Sections 27 and 28 of Article X of the Constitution of 1908, by holders of bonds heretofore issued, and all obligations assumed by the state or any school district under these sections, shall remain unimpaired.

Sec. 17. No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

Sec. 18. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

This section shall not be construed to prohibit the investment of public funds until needed for current requirements or the investment of funds accumulated to provide retirement or pension benefits for public officials and employees, as provided by law.

Sec. 19. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation, except that funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law; and endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

Sec. 20. No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money

shall be deposited in any bank in excess of 50 percent of the capital and surplus of such bank. Any bank receiving deposits of state money shall show the amount of state money so deposited as a separate item in all published statements.

Sec. 21. The legislature shall provide by law for the annual accounting for all public moneys, state and local, and may provide by law for interim accounting.

The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.

Sec. 22. Procedures for the examination and adjustment of claims against the state shall be prescribed by law.

Sec. 23. All financial records, accountings, audit reports and other reports of public moneys shall be public records and open to inspection. A statement of all revenues and expenditures of public moneys shall be published and distributed annually, as provided by law.

Sec. 24. The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby.

Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be used for financing unfunded accrued liabilities.

Article X
Property

Sec. 1. The disabilities of coverture as to property are abolished. The real and personal estate of every woman acquired before marriage and all real and personal property to which she may afterwards become entitled shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be dealt with and disposed of by her as if she were unmarried. Dower may be relinquished or conveyed as provided by law.

Sec. 2. Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law. The amount of compensation shall be determined in proceedings in a court of record.

Sec. 3. A homestead in the amount of not less than $3,500 and personal property of every resident of this state in the amount of not less than $750, as defined by law, shall be exempt from forced sale on execution or other process of any court. Such exemptions shall not extend to any lien thereon excluded from exemption by law.

Sec. 4. Procedures relating to escheats and to the custody and disposition of escheated property shall be prescribed by law.

Sec. 5. The legislature shall have general supervisory jurisdiction over all state owned lands useful for forest preserves, game areas and recreational purposes; shall require annual reports as to such lands from all departments having supervision or control thereof; and shall by general law provide for the sale, lease or other disposition of such lands.

The legislature by an act adopted by two-thirds of the members elected to and serving in each house may designate any part of such lands as a state land reserve. No lands in the state land reserve may be removed from the reserve, sold, leased or otherwise disposed of except by an act of the legislature.

Sec. 6. Aliens who are residents of this state shall enjoy the same rights and privileges in property as citizens of this state.

Article XI
Public Officers and Employment

Sec. 1. All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of ..... according to the best of my ability. No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.

Sec. 2. The terms of office of elective state officers, members of the legislature and justices and judges of courts of record shall begin at twelve o'clock noon on the first day of January next succeeding their election, except as otherwise provided in this constitution. The terms of office of county officers shall begin on the first day of January next succeeding their election, except as otherwise provided by law.

Sec. 3. Neither the legislature nor any political subdivision of this state shall grant or authorize extra compensation to any public officer, agent or contractor after the service has been rendered or the contract entered into.

Sec. 4. No person having custody or control of public moneys shall be a member of the legislature, or be eligible to any office of trust or profit under this state, until he shall have made an accounting, as provided by law, of all sums for which he may be liable.

Sec. 5. The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the principal executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legis-

lature, employees of the state institutions of higher education, all persons in the armed forces of the state, eight exempt positions in the office of the governor, and within each principal department, when requested by the department head, two other exempt positions, one of which shall be policy-making. The civil service commission may exempt three additional positions of a policy-making nature within each principal department.

The civil service commission shall be non-salaried and shall consist of four persons, not more than two of whom shall be members of the same political party, appointed by the governor for terms of eight years, no two of which shall expire in the same year.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursments for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

No person shall be appointed to or promoted in the classified service who has not been certified by the commission as qualified for such appointment or promotion. No appointments, promotions, demotions or removals in the classified service shall be made for religious, racial or partisan considerations.

Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year. Within 60 calendar days following such transmission, the legislature may, by a two-thirds vote of the members elected to and serving in each house, reject or reduce increases in rates of compensation authorized by the commission. Any reduction ordered by the legislature shall apply uniformly to all classes of employees affected by the increases and shall not adjust pay differentials already established by the civil service commission. The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission.

The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition of a position shall have a right of appeal to the commission through established grievance procedures.

The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within six months after the conclusion of each fiscal year the commission shall return to the state treasury all moneys unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

No payment for personal services shall be made or authorized until the provisions of this constitution pertaining to civil service have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

Sec. 6. By ordinance or resolution of its governing body which shall not take effect until approved by a majority of the electors voting thereon, unless otherwise provided by charter, each county, township, city, village, school district and other governmental unit or authority may establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services to any such unit on a reimbursable basis.

Sec. 7. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected and serving shall be necessary to direct an impeachment.

When an impeachment is directed, the house of representatives shall elect three of its members to prosecute the impeachment.

Every impeachment shall be tried by the senate immediately after the final adjournment of the legislature. The senators shall take an oath or affirmation truly and impartially to try and determine the impeachment according to the evi-

dence. When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside.

No person shall be convicted without the concurrence of two-thirds of the senators elected and serving. Judgment in case of conviction shall not extend further than removal from office, but the person convicted shall be liable to punishment according to law.

No judicial officer shall exercise any of the functions of his office after an impeachment is directed until he is acquitted.

Article XII
Amendment & Revision

Sec. 1. Amendments to this constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by two-thirds of the members elected to and serving in each house on a vote with the names and vote of those voting entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct. If a majority of electors voting on a proposed amendment approve the same, it shall become part of the constitution and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved.

Sec. 2. Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. The person authorized by law to receive such petition shall upon its receipt determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next general election. Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.

If the proposed amendment is approved by a majority of the electors voting on the question, it shall become part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. If two or more amendments approved by the electors at the same election conflict, that amendment receiving the highest affirmative vote shall prevail.

Sec. 3. At the general election to be held in the year 1978, and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than six months after the proposal was certified as approved, the electors of each representative district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate at a partisan election. The delegates so elected shall convene at the seat of government on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. The governor shall appoint a qualified resident of the same district to fill a vacancy in the office of any delegate who shall be a member of the same party as the delegate vacating the office. The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, with the names and vote of those voting entered in the

journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

Schedule and Temporary Provisions

To insure the orderly transition from the constitution of 1908 to this constitution the following schedule and temporary provisions are set forth to be effective for such period as are thereby required.

Sec. 1. The attorney general shall recommend to the legislature as soon as practicable such changes as may be necessary to adapt existing laws to this constitution.

Sec. 2. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights existing on the effective date of this constitution shall continue unaffected except as modified in accordance with the provisions of this constitution.

Sec. 3. Except as otherwise provided in this constitution, all officers filling any office by election or appointment shall continue to exercise their powers and duties until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or the laws enacted pursuant thereto.

No provision of this constitution, or of law or of executive order authorized by this constitution shall shorten the term of any person elected to state office at a statewide election on or prior to the date on which this constitution is submitted to a vote. In the event the duties of any such officers shall not have been abolished or incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated or abolished.

Sec. 4. All officers elected at the same election that this constitution is submitted to the people for adoption shall take office and complete the term to which they were elected under the 1908 constitution and existing laws and continue to serve until their successors are elected and qualified pursuant to this constitution or law.

Sec. 5. Notwithstanding any other provision in this constitution, the governor, the lieutenant governor, the secretary of state, the attorney general, and state senators shall be elected at the general election in 1964 to serve for two year terms beginning on the first day of January next succeeding their election. The first election of such officers for four-year terms under this constitution shall be held at the general election in 1966.

Sec. 6. The state shall be districted for the purpose of electing senators in accordance with the provisions of Section 2 of Article IV of this constitution, after the official publication of the total population count of the 1970 decennial federal census. Until the apportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution shall remain intact except that upon the adoption of this constitution each of the counties of Kent, Genesee, Macomb and Oakland shall be divide by the apportionment commission into two senatorial districts and Wayne county into eight senatorial districts in accordance with this constitution. The legislature may give prior effect to Section 2 of Article IV of this constitution, which action shall not be subject to veto by the governor.

Sec. 7. Notwithstanding the provisions of this constitution that the supreme court shall consist of seven justices it shall consist of eight justices until the time that a vacancy occurs as a result of death, retirement or resignation of a justice. The first such vacancy shall not be filled.

Sec. 8. Any judge of probate serving on the effective date of this constitution may serve the remainder of the term and be eligible to succeed himself for election regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

Sec. 9. The provisions of Article VI providing that terms of judicial offices shall not all expire at the same time, shall be implemented by law providing that at the next election for such offices judges shall be elected for terms of varying length, none of which shall be shorter than the regular term provided for the office.

Sec. 10. The members of the state board of education provided for in Section 3 of Article VIII of this constitution shall first be elected at the first general election after the effective date of this constitution for the following terms: two shall be elected for two years, two for four years, two for six years, and two for eight years as prescribed by law.

The State Board of Education provided for in the constitution of 1908 is abolished at twelve o'clock noon January 1 of the year following the first general election under this constitution and the terms of members thereof shall then expire.

Sec. 11. The provisions of this constitution providing for members of boards of control of institutions of higher education and the State Board of Public Community and Junior Colleges shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be

extended, and may further provide that the initial terms of office of members may be less than eight years.

Sec. 12. The provisions of this constitution increasing the number of members of the Board of Trustees of Michigan State University and of the Board of Governors of Wayne State University to eight, and of their term of office to eight years, shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended one year, and may further provide that the initial terms of office of the additional members may be less than eight years.

Sec. 13. The initial allocation of departments by law pursuant to Section 2 of Article V of this constitution, shall be completed within two years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make the initial allocation.

Sec. 14. Contractual obligations of the state incurred pursuant to the constitution of 1908 shall continue to be obligations of the state.

For the retirement of notes and bonds issued under Section 26 of Article X of the 1908 constitution, there is hereby appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each year.

Sec. 15. The legislature by a vote of two-thirds of the members elected to and serving in each house may provide that the state may borrow money and may pledge its full faith and credit for refunding any bonds issued by the Mackinac Bridge Authority and at the time of refunding the Mackinac Bridge Authority shall be abolished and the operation of the bridge shall be assumed by the state highway department. The legislature may implement this section by law.

Sec. 16. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the Tuesday after the first Monday of November, 1962. It shall be the duty of the secretary of state forthwith to give notice of such submission to all other officers required to give or publish any notice in regard to a general election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.

Sec. 17. Every registered elector may vote on the adoption of the constitution. The board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office, the words: Shall the revised constitution be adopted? ( ) Yes. ( ) No. All votes cast at the election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. If the revised constitution so submitted receives more votes in its favor than were cast against it, it shall be the supreme law of the state on and after the first day of January of the year following its adoption.

against the secretary of state, by Mr. Van Dusen, chairman, submits the following report:

In accordance with Resolution 96, the committee on action against secretary of state on May 14, 1962, filed with the circuit court for the county of Ingham, a petition for declaration of rights in an action entitled, Stephen S. Nisbet, President of the Michigan Constitutional Convention of 1961-1962 v. James M. Hare, Secretary of State. The relief sought was a declaration that the convention has the right to provide for submission of the proposed new constitution to the electors at the general election to be held November 6, 1962. The summons and petition were served on the secretary of state on the same day.

On May 22, having had no response from the attorney general, petitioner filed a motion for the entry of a decree. On May 25, the secretary of state appeared specially by the attorney general and moved to dismiss the petition on the ground that the case did not present an actual controversy. The trial court heard argument on the attorney general's motion on June 1 and on June 6 rendered an opinion denying the motion to dismiss. An order to that effect was entered on June 11.

Instead of proceeding to file an answer, the attorney general then filed an application to the supreme court for leave to appeal. This application was granted by the supreme court and the attorney general, on July 2, filed a claim of appeal.

The attorney general has not yet filed a brief and he states that he does not intend to do so until after August 7.

It is obvious that no judicial determination of the right of the constitutional convention to require submission of the proposed constitution to the electors on November 6 will be made in time to be useful to the convention. Accordingly, the committee recommends:

1) That section 15 [formerly section 16] of the schedule and temporary provisions of the proposed constitution be amended by striking from the first sentence the words "Tuesday after the first Monday of November, 1962" and inserting "first Monday in April, 1963."

2) That the committee be authorized to discontinue the action entitled, Nisbet v. Hare.

Richard C. Van Dusen, chairman.

MR. VAN DUSEN: Mr. President, I move the adoption of the report.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that the report be adopted. Those in favor will say aye. Opposed, no.

The report is adopted. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, in compliance with our rules, I think it would now be necessary to take a roll call vote on the amendment to the constitution changing the date.

PRESIDENT NISBET: Mr. Chase will read the amendment.

SECRETARY CHASE: The amendment recommended in the report is as follows:

1. Amend the schedule, section 15 [formerly section 16] (column 2) line 11, after "held on the" by striking out "Tuesday after the first Monday of November, 1962.", and inserting "first Monday in April, 1963.".

PRESIDENT NISBET: The secretary will call the roll. Those in favor of the amendment will vote aye as your name is called. Those opposed will vote no.

The roll was called and the delegates voted as follows:

Yeas—141

Allen	Goebel	Page
Andrus, Miss	Gover	Pellow
Anspach	Greene	Perlich
Austin	Gust	Perras
Baginski	Habermehl	Plank
Balcer	Hanna, W. F.	Pollock
Barthwell	Hannah, J. A.	Powell
Batchelor	Hart, Miss	Prettie
Beaman	Haskill	Pugsley
Bentley	Hatch	Radka
Binkowski	Hatcher, Mrs.	Rajkovich
Blandford	Heideman	Richards, J. B.
Bledsoe	Higgs	Richards, L. W.
Bonisteel	Hood	Romney
Boothby	Howes	Rood
Bowens	Hoxie	Rush
Bradley	Hubbs	Sablich
Brake	Hutchinson	Seyferth
Brown, G. E.	Iverson	Shackleton
Brown, T. S.	Jones	Shaffer
Buback	Judd, Mrs.	Shanahan
Butler, Mrs.	Karn	Sharpe
Conklin, Mrs.	Kelsey	Sleder
Cudlip	Kirk, S.	Snyder
Cushman, Mrs.	Knirk, B.	Spitler
Danhof	Koeze, Mrs.	Stafseth
Dehnke	Krolikowski	Staiger
Dell	Kuhn	Stamm
DeVries	Lawrence	Sterrett
Donnelly, Miss	Leibrand	Stevens
Doty, Dean	Leppien	Stopczynski
Doty, Donald	Lesinski	Suzore
Douglas	Liberato	Thomson
Downs	Madar	Tubbs
Durst	Mahinske	Turner
Elliott, A. G.	Martin	Tweedie
Elliott, Mrs. Daisy	McAllister	Upton
Erickson	McCauley	Van Dusen
Everett	McGowan, Miss	Walker
Farnsworth	McLogan	Wanger
Faxon	Millard	White
Figy	Mosier	Wilkowski
Finch	Murphy	Wood
Follo	Nisbet	Woolfenden
Ford	Nord	Yeager
Gadola	Norris	Young
Garvin	Ostrow	Youngblood

Nays—0

SECRETARY CHASE: On the adoption of the amendment, the yeas are 141; the nays are none.

PRESIDENT NISBET: The amendment is adopted. The question now is on the **final passage of the constitution as amended** this morning. Those who are in favor will answer aye as your names are called. Those opposed will answer nay. The secretary will call the roll.

The roll was called and the delegates voted as follows:

Yeas—98

Allen	Gover	Powell
Andrus, Miss	Gust	Prettie
Anspach	Habermehl	Pugsley
Balcer	Hanna, W. F.	Radka
Batchelor	Hannah, J. A.	Rajkovich
Beaman	Haskill	Richards, J. B.
Bentley	Hatch	Richards, L. W
Blandford	Heideman	Romney
Bonisteel	Higgs	Rood
Boothby	Howes	Rush
Brake	Hoxie	Seyferth
Brown, G. E.	Hubbs	Shackleton
Butler, Mrs.	Hutchinson	Shaffer
Conklin, Mrs.	Iverson	Sharpe
Cudlip	Judd, Mrs.	Sleder
Cushman, Mrs.	Karn	Spitler
Danhof	Kirk, S.	Stafseth
Dehnke	Knirk, B.	Staiger
Dell	Koeze, Mrs.	Stamm
DeVries	Kuhn	Sterrett
Donnelly, Miss	Lawrence	Stevens
Doty, Dean	Leppien	Thomson
Doty, Donald	Martin	Tubbs
Durst	McCauley	Turner
Elliott, A. G.	McGowan, Miss	Tweedie
Erickson	McLogan	Upton
Everett	Millard	Van Dusen
Farnsworth	Mosier	Wanger
Figy	Nisbet	White
Finch	Page	Wood

Follo	Perras	Woolfenden
Gadola	Plank	Yeager
Goebel	Pollock	

Nays—43

Austin	Greene	Nord
Baginski	Hart, Miss	Norris
Barthwell	Hatcher, Mrs.	Ostrow
Binkowski	Hood	Pellow
Bledsoe	Jones	Perlich
Bowens	Kelsey	Sablich
Bradley	Krolikowski	Shanahan
Brown, T. S.	Leibrand	Snyder
Buback	Lesinski	Stopczynski
Douglas	Liberato	Suzore
Downs	Madar	Walker
Elliott, Mrs. Daisy	Mahinske	Wilkowski
Faxon	McAllister	Young
Ford	Murphy	Youngblood
Garvin		

SECRETARY CHASE: On the adoption of the constitution as amended, the yeas are 98; the nays are 43. (applause)

PRESIDENT NISBET: The **constitution** is adopted.

For the constitution as adopted, see below, page 3317.

Because of the hour, it being almost noon, the Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move that the convention now stand in recess until 2:00 p.m.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that we recess until 2:00 p.m. Those in favor will say aye. Opposed, no.

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

[Whereupon, at 11:50 o'clock a.m., the convention recessed; and, at 2:00 o'clock p.m., reconvened.]

Will the delegates please take their seats. The convention will please come to order.

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

PRESIDENT NISBET: I think we should recognize the fact that many of our employees are voluntarily back with us today, meeting with the delegates. I'm sure all of us are very happy to have them here. It brings about a happy result to see them and I think we ought to give them a good hand. (applause) Mr. Chase has an announcement.

SECRETARY CHASE: There are 3 announcements that possibly should have been made before we recessed for lunch.

First, there is mail for all of the delegates in the mail room downstairs.

Just prior to the May 11 adjournment, several of the delegates took out, on loan, sets of convention slides which have not been returned. Missing from our files are 12 complete sets of slides. Since we frequently have call from other delegates for the use of these slides, we would appreciate their return as soon as possible. Ink White, chairman of the committee on public information.

I am sure the delegates recall the lady on the civic center staff who took such good care of keeping the windows clean and the place well slicked up, who had to go to the hospital for a very critical operation. A number of the delegates contributed to a fund to help her over her financial difficulties. I have the following card:

> It is very difficult to express my appreciation to all the wonderful people of con con. Let me say, with my heart, your kindness and generosity will always be remembered.
>
> Sincerely,
> Freda Adams.

PRESIDENT NISBET: Since the adjournment on May 11, we have added 2 new associate members to the delegation: Mrs. Charles Follo and Mrs. Gil Wanger.

I asked Charlie if Mrs. Follo was present so that he might present her, but he said she isn't. We are sorry, Charlie, she couldn't be with us.

Mr. Wanger, is your associate delegate present? Would you present her?

[Whereupon, the delegates accorded Mrs. Wanger a standing ovation.]

At the final session before the long recess the president was authorized to name a reunion committee for the constitutional convention. Accordingly, the **president appoints,** as members of the reunion committee: Mr. Erickson, Mrs. Koeze, Messrs. Jones, Bowens, Brake, Mrs. Conklin, Mr. Dean Doty, Mrs. Daisy Elliott, Messrs. Faxon, Kelsey, Kuhn, Powell, Sharpe, Wanger, White and Norris.

Without objection, the appointments are approved. You will notice that most of these delegates are within the area of Lansing, Detroit or Grand Rapids for their ease in getting together when they have to meet. Mr. Claud Erickson is chairman of the committee.

Returning to the order of business, **approval of address to people.** We will take up the **report of the committee on public information.** Mr. White, chairman.

MR. WHITE: Mr. President, under date of June 26, 1962, each delegate was mailed proof copies of the proposed address to the people. Since that time our committee has received numerous suggestions for corrections, additions, deletions and so on. Our committee has met and gone over these suggestions and they have been, for the most part, agreed to. I might say, parenthetically, the address in its present corrected form represents the writing and editing of upwards of 50 of our delegates.

Under date of July 27, 1962, each of you was mailed a 16 page multilith report which outlined in detail some 108 corrections. This communication also carried the recommendation that we be authorized to correct the text of the constitution as it appears in the address to conform with the style and drafting changes adopted at today's session, and to offer comments accordingly, if necessary. All of this material has been delivered again to each delegate's desk today. Additionally, you have a single white multilith sheet from our committee containing brief addenda to this 16 page report.

It seems to me, Mr. President, the delegates have had ample time to consider these matters, and to expedite our final deliberations, I move that the report of the public information committee, with the recommended addenda, be considered read.

PRESIDENT NISBET: Without objection, it is so ordered.

Following is the report as submitted and considered read:

After careful consideration of suggestions from delegates, your committee on public information recommends the adoption of the following changes in the proof copy of the address to the people:

For document incorporating following changes, see below, page 3355. Page numbers in report refer to document pages.

1. Amend page 2, second full paragraph, line 3, after "that one" by striking out "must" and inserting "should"; to improve phraseology.

2. Amend page 2, third full paragraph, line 1, by striking out "Ordered by popular vote, its delegates selected by the people on the basis of one from each senatorial and representative district, the Constitutional Convention of 1961-62 met in Lansing on October 3, 1961.", and inserting "The convention was ordered by popular vote in April of 1961. There were 144 delegates, representing Michigan's 34 State Senatorial districts and 110 State Representative seats. They were elected in statewide voting on September 12, 1961, and convened at Lansing on October 3, 1961."; to improve awkward sentence construction and correct error by indicating "seats" rather than representative "districts."

3. Amend page 2, fifth full paragraph, line 2, after "overlapped" by striking out "each other"; to improve phraseology.

4. Amend page 2, fifth full paragraph, line 6, after

CONSTITUTION
OF THE
STATE OF MICHIGAN

as finally adopted
by the Convention
August 1, 1962

PREAMBLE

We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

ARTICLE I

Declaration of Rights

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation.

Sec. 3. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances.

Sec. 4. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Sec. 5. Every person may freely speak, write, express and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be enacted to restrain or abridge the liberty of speech or of the press.

Sec. 6. Every person has a right to keep and bear arms for the defense of himself and the state.

Sec. 7. The military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 8. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sec. 9. Neither slavery, nor involuntary servitude unless for the punishment of crime, shall ever be tolerated in this state.

Sec. 10. No bill of attainder, ex post facto law or law impairing the obligation of contract shall be enacted.

Sec. 11. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation. The provisions of this section shall not be construed to bar from evidence in any criminal proceeding any narcotic drug, firearm, bomb, explosive or any other dangerous weapon, seized by a peace officer outside the curtilage of any dwelling house in this state.

Sec. 12. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

Sec. 13. A suitor in any court of this state has the right to prosecute or defend his suit, either in his own proper person or by an attorney.

Sec. 14. The right of trial by jury shall remain, but shall be waived in all civil cases unless demanded by one of the parties in the manner prescribed by law. In all civil cases tried by 12 jurors a verdict shall be received when 10 jurors agree.

Sec. 15. No person shall be subject for the same offense to be twice put in jeopardy. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

Sec. 16. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

Sec. 18. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sec. 19. In all prosecutions for libels the truth may be given in evidence to the jury; and, if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

Sec. 20. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 jurors in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; to have an appeal as a matter of right; and in courts of record, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

Sec. 21. No person shall be imprisoned for debt arising out of or founded on contract, express or implied, except in cases of fraud or breach of trust.

Sec. 22. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act or on confession in open court.

Sec. 23. The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE II

Elections

Sec. 1. Every citizen of the United States who has attained the age of 21 years, who has resided in this state six months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

Sec. 2. The legislature may by law exclude persons from voting because of mental incompetence or commitment to a jail or penal institution.

Sec. 3. For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than six months and may waive residence requirements for former citizens of this state who have removed herefrom. The legislature shall not permit voting by any person who meets the voting residence requirements of the state to which he has removed.

Sec. 4. The legislature shall enact laws to regulate the time, place and manner of all nominations and elections, except as otherwise provided in this constitution or in the constitution and laws of the United States. The legislature shall enact laws to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames.

Sec. 5. Except for special elections to fill vacancies, or as otherwise provided in this constitution, all elections for national, state, county and township offices shall be held on the first Tuesday after the first Monday in November in each even-numbered year or on such other date as members of the congress of the United States are regularly elected.

Sec. 6. Whenever any question is required to be submitted by a political subdivision to the electors for the increase of the ad valorem tax rate limitation imposed by Section 6 of Article IX for a period of more than five years, or for the issue of bonds, only electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or electors who are the lawful husbands or wives of such persons shall be entitled to vote thereon. All electors in the district or territory affected may vote on all other questions.

Sec. 7. A board of state canvassers of four members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers. A majority of any board of canvassers shall not be composed of members of the same political party.

Sec. 8. Laws shall be enacted to provide for the recall of all elective officers except judges of courts of record upon petition of electors equal in number to 25 percent of the number of persons voting in the last preceding election for the office of governor in the electoral district of the officer sought to be recalled. The sufficiency of any statement of reasons or grounds procedurally required shall be a political rather than a judicial question.

Sec. 9. The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to approve or reject laws enacted by the legislature, called the referendum. The power of initiative extends only to laws which the legislature may enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds and must be invoked in the manner prescribed by law within 90 days following the final adjournment of the legislative session at which the law was enacted. To invoke the initiative or referendum, petitions signed by a number of registered electors, not less than eight percent for initiative and five percent for referendum of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected shall be required.

No law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election.

Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If the law so proposed is not enacted by the legislature within the 40 days, the state officer authorized by law shall submit such proposed law to the people for approval or rejection at the next general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by such state officer to the electors for approval or rejection at the next general election.

Any law submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No law initiated or adopted by the people shall be subject to the veto power of the governor, and no law adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors unless otherwise provided in the initiative measure or by three-fourths of the members elected to and serving in each house of the legislature. Laws approved by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. If two or more measures approved by the electors at the same election conflict, that receiving the highest affirmative vote shall prevail.

The legislature shall implement the provisions of this section.

ARTICLE III

General Government

Sec. 1. The seat of government shall be at Lansing.

Sec. 2. The powers of government are divided into three branches: legislative, executive and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.

Sec. 3. There shall be a great seal of the State of Michigan and its use shall be provided by law.

Sec. 4. The militia shall be organized, equipped and disciplined as provided by law.

Sec. 5. Subject to provisions of general law, this state or any political subdivision thereof, any governmental authority or any combination thereof may enter into agreements for the performance, financing or execution of their respective functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution. Any other provision of this constitution notwithstanding, an officer or employee of the state or of any such unit of government or subdivision or agency thereof may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service. The legislature may impose such restrictions, limitations or conditions on such service as it may deem appropriate.

Sec. 6. The state shall not be a party to, nor be financially interested in, any work of internal improvement, nor engage in carrying on any such work, except for public internal improvements provided by law.

Sec. 7. The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are changed, amended or repealed.

Sec. 8. Either house of the legislature or the governor may request the opinion of the supreme court on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date.

ARTICLE IV

Legislative Branch

Sec. 1. The legislative power of the State of Michigan is vested in a senate and a house of representatives.

Sec. 2. The senate shall consist of 38 members to be elected from single member districts at the same election as the governor for four-year terms concurrent with the term of office of the governor.

In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned apportionment factors equal to the sum of its percentage of the state's population as shown by the last regular federal decennial census computed to the nearest one-one hundredth of one percent multiplied by four and its percentage of the state's land area computed to the nearest one-one hundredth of one percent.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties is entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.

(2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there is a failure to comply with the above standards.

(3) Counties entitled to two or more senators shall be divided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

Sec. 3. The house of representatives shall consist of 110 members elected for two-year terms from single member districts apportioned on a basis of population as provided in this article. The districts shall consist of compact and convenient territory contiguous by land.

Each county which has a population of not less than seven-tenths of one percent of the population of the state shall constitute a separate representative area. Each county having less than seven-tenths of one percent of the population of the state shall be combined with another county or counties to form a representative area of not less than seven-tenths of one percent of the population of the state. Any county which is isolated under the initial allocation as provided in this section shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one representative.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to two or more representatives shall be divided into single member representative districts as follows:

(1) The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the representative area by the number of representatives to which it is entitled.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population, adhering to county lines.

Sec. 4. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial district in the city with which it is combined, if provided by ordinance of the city. The district or districts with which the territory shall be combined shall be determined by such ordinance certified to the secretary of state. No such change in the boundaries of a representative or senatorial district shall have the effect of removing a legislator from office during his term.

Sec. 5. Island areas are considered to be contiguous by land to the county of which they are a part.

Sec. 6. A commission on legislative apportionment is hereby established consisting of eight electors, four of whom shall be selected by the state organizations of each of the two political parties whose candidates for governor received the highest vote at the last general election at which a governor was elected preceding each apportionment. If a candidate for governor of a third political party has received at such election more than 25 percent of such gubernatorial vote, the commission shall consist of 12 members, four of whom shall be selected by the state organization of the third political party. One resident of each of the following four regions shall be selected by each political party organization: (1) the upper peninsula; (2) the northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) southwestern Michigan, those counties south of region (2) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) southeastern Michigan, the remaining counties of the state.

No officers or employees of the federal, state or local governments, excepting notaries public and members of the armed forces reserve, shall be eligible for membership on the commission. Members of the commission shall not be eligible for election to the legislature until two years after the apportionment in which they participated becomes effective.

The commission shall be appointed immediately after the adoption of this constitution and whenever apportionment or districting of the legislature is required by the provisions of this constitution. Members of the commission shall hold office until each apportionment or districting plan becomes effective. Vacancies shall be filled in the same manner as for original appointment.

The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman, shall make its own rules of procedure, and shall receive compensation provided by law. The legislature shall appropriate funds to enable the commission to carry out its activities.

Within 30 days after the adoption of this constitution, and after the official total population count of each federal decennial census of the state and its political subdivisions is available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to district and apportion the senate and house of representatives according to the provisions of this constitution. All final decisions shall require the concurrence of a majority of the members of the commission. The commission shall hold public hearings as may be provided by law.

Each final apportionment and districting plan shall be published as provided by law within 30 days from the date of its adoption and shall become law 60 days after

publication. The secretary of state shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of each plan.

If a majority of the commission cannot agree on a plan, each member of the commission, individually or jointly with other members, may submit a proposed plan to the supreme court. The supreme court shall determine which plan complies most accurately with the constitutional requirements and shall direct that it be adopted by the commission and published as provided in this section.

Upon the application of any elector filed not later than 60 days after final publication of the plan, the supreme court, in the exercise of original jurisdiction, shall direct the secretary of state or the commission to perform their duties, may review any final plan adopted by the commission, and shall remand such plan to the commission for further action if it fails to comply with the requirements of this constitution.

Sec. 7. Each senator and representative must be a citizen of the United States, at least 21 years of age, and an elector of the district he represents. The removal of his domicile from the district shall be deemed a vacation of the office. No person who has been convicted of subversion or who has within the preceding 20 years been convicted of a felony involving a breach of public trust shall be eligible for either house of the legislature.

Sec. 8. No person holding any office, employment or position under the United States or this state or a political subdivision thereof, except notaries public and members of the armed forces reserve, may be a member of either house of the legislature.

Sec. 9. No person elected to the legislature shall receive any civil appointment within this state from the governor, except notaries public, from the legislature, or from any other state authority, during the term for which he is elected.

Sec. 10. No member of the legislature nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest. The legislature shall further implement this provision by appropriate legislation.

Sec. 11. Senators and representatives shall be privileged from civil arrest and civil process during sessions of the legislature and for five days next before the commencement and after the termination thereof. They shall not be questioned in any other place for any speech in either house.

Sec. 12. The compensation and expense allowances of the members of the legislature shall be determined by law. Changes in compensation or expense allowances shall become effective only when legislators commence their terms of office after a general election.

Sec. 13. The legislature shall meet at the seat of government on the second Wednesday in January of each year at twelve o'clock noon. Each regular session shall adjourn without day, on a day determined by concurrent resolution, at twelve o'clock noon. Any business, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next regular session.

Sec. 14. A majority of the members elected to and serving in each house shall constitute a quorum to do business. A smaller number in each house may adjourn from day to day, and may compel the attendance of absent members in the manner and with penalties as each house may prescribe.

Sec. 15. There shall be a bi-partisan legislative council consisting of legislators appointed in the manner prescribed by law. The legislature shall appropriate funds for the council's operations and provide for its staff which shall maintain bill drafting, research and other services for the members of the legislature. The council shall periodically examine and recommend to the legislature revision of the various laws of the state.

Sec. 16. Each house, except as otherwise provided in this constitution, shall choose its own officers and determine the rules of its proceedings, but shall not adopt any rule that will prevent a majority of the members elected thereto and serving therein from discharging a committee from the further consideration of any measure. Each house shall be the sole judge of the qualifications, elections and returns of its members, and may, with the concurrence of two-thirds of all the members elected thereto and serving therein, expel a member. The reasons for such expulsion shall be entered in the journal, with the votes and names of the members voting upon the question. No member shall be expelled a second time for the same cause.

Sec. 17. Each house of the legislature may establish the committees necessary for the efficient conduct of its business and the legislature may create joint committees. On all actions on bills and resolutions in each committee, names and votes of members shall be recorded. Such vote shall be available for public inspection. Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in the journal in advance of the hearing.

Sec. 18. Each house shall keep a journal of its proceedings, and publish the same unless the public security otherwise requires. The record of the vote and name of the members of either house voting on any question shall be entered in the journal at the request of one-fifth of the members present. Any member of either house may dissent from and protest against any act, proceeding or resolution which he deems injurious to any person or the public, and have the reason for his dissent entered in the journal.

Sec. 19. All elections in either house or in joint convention and all votes on appointments submitted to the senate for advice and consent shall be published by vote and name in the journal.

Sec. 20. The doors of each house shall be open unless the public security otherwise requires.

Sec. 21. Neither house shall, without the consent of the other, adjourn for more than two intervening calendar days, nor to any place other than where the legislature may then be in session.

Sec. 22. All legislation shall be by bill and may originate in either house.

Sec. 23. The style of the laws shall be: The People of the State of Michigan enact.

Sec. 24. No law shall embrace more than one object, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title.

Sec. 25. No law shall be revised, altered or amended by reference to its title only. The section or sections of the act altered or amended shall be re-enacted and published at length.

Sec. 26. No bill shall be passed or become a law at any regular session of the legislature until it has been printed or reproduced and in the possession of each house for

at least five days. Every bill shall be read three times in each house before the final passage thereof. No bill shall become a law without the concurrence of a majority of the members elected to and serving in each house. On the final passage of bills, the votes and names of the members voting thereon shall be entered in the journal.

Sec. 27. No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.

Sec. 28. When the legislature is convened on extraordinary occasions in special session no bill shall be passed on any subjects other than those expressly stated in the governor's proclamation or submitted by special message.

Sec. 29. The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act shall take effect until approved by two-thirds of the members elected to and serving in each house and by a majority of the electors voting thereon in the district affected. Any act repealing local or special acts shall require only a majority of the members elected to and serving in each house and shall not require submission to the electors of such district.

Sec. 30. The assent of two-thirds of the members elected to and serving in each house of the legislature shall be required for the appropriation of public money or property for local or private purposes.

Sec. 31. The general appropriation bills for the succeeding fiscal period covering items set forth in the budget shall be passed or rejected in either house of the legislature before that house passes any appropriation bill for items not in the budget except bills supplementing appropriations for the current fiscal year's operation. Any bill requiring an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as passed by the legislature shall contain an itemized statement of estimated revenue by major source in each operating fund for the ensuing fiscal period, the total of which shall not be less than the total of all appropriations made from each fund in the general appropriation bills as passed.

Sec. 32. Every law which imposes, continues or revives a tax shall distinctly state the tax.

Sec. 33. Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated. That house shall enter such objections in full in its journal and reconsider the bill. If two-thirds of the members elected to and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by two-thirds of the members elected to and serving in that house. The vote of each house shall be entered in the journal with the votes and names of the members voting thereon. If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it.

Sec. 34. Any bill passed by the legislature and approved by the governor, except a bill appropriating money, may provide that it will not become law unless approved by a majority of the electors voting thereon.

Sec. 35. All laws enacted at any session of the legislature shall be published in book form within 60 days after final adjournment of the session, and shall be distributed in the manner provided by law. The prompt publication of judicial decisions shall be provided by law. All laws and judicial decisions shall be free for publication by any person.

Sec. 36. No general revision of the laws shall be made. The legislature may provide for a compilation of the laws in force, arranged without alteration, under appropriate heads and titles.

Sec. 37. The legislature may by concurrent resolution empower a joint committee of the legislature, acting between sessions, to suspend any rule or regulation promulgated by an administrative agency subsequent to the adjournment of the last preceding regular legislative session. Such suspension shall continue no longer than the end of the next regular legislative session.

Sec. 38. The legislature may provide by law the cases in which any office shall be vacant and the manner of filling vacancies where no provision is made in this constitution.

Sec. 39. In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state caused by enemy attack on the United States, the legislature may provide by law for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices; and enact other laws necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred by this section, elections shall always be called as soon as possible to fill any vacancies in elective offices temporarily occupied by operation of any legislation enacted pursuant to the provisions of this section.

Sec. 40. The legislature may by law establish a liquor control commission which, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof. The legislature may provide for an excise tax on such sales. Neither the legislature nor the commission may authorize the manufacture or sale of alcoholic beverages in any county in which a majority of the electors voting thereon shall prohibit the same.

Sec. 41. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

Sec. 42. The legislature may provide for the incorporation of ports and port districts, and confer power and authority upon them to engage in work of internal improvements in connection therewith.

Sec. 43. No general law providing for the incorporation of trust companies or corporations for banking purposes, or regulating the business thereof, shall be enacted, amended or repealed except by a vote of two-thirds of the members elected to and serving in each house.

Sec. 44. The legislature may authorize a trial by a jury of less than 12 jurors in civil cases.

Sec. 45. The legislature may provide for indeterminate sentences as punishment for crime and for the detention and release of persons imprisoned or detained under such sentences.

Sec. 46. No law shall be enacted providing for the penalty of death.

Sec. 47. The legislature may authorize the employment of chaplains in state institutions of detention or confinement.

Sec. 48. The legislature may enact laws providing for the resolution of disputes concerning public employees, except those in the state classified civil service.

Sec. 49. The legislature may enact laws relative to the hours and conditions of employment.

Sec. 50. The legislature may provide safety measures and regulate the use of atomic energy and forms of energy developed in the future, having in view the general welfare of the people of this state.

Sec. 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

Sec. 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction.

Sec. 53. The legislature by a majority vote of the members elected to and serving in each house, shall appoint an auditor general, who shall be a certified public accountant licensed to practice in this state, to serve for a term of eight years. He shall be ineligible for appointment or election to any other public office in this state from which compensation is derived while serving as auditor general and for two years following the termination of his service. He may be removed for cause at any time by a two-thirds vote of the members elected to and serving in each house. The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

The auditor general upon direction by the legislature may employ independent accounting firms or legal counsel and may make investigations pertinent to the conduct of audits. He shall report annually to the legislature and to the governor and at such other times as he deems necessary or as required by the legislature. He shall be assigned no duties other than those specified in this section.

Nothing in this section shall be construed in any way to infringe the responsibility and constitutional authority of the governing boards of the institutions of higher education to be solely responsible for the control and direction of all expenditures from the institutions' funds.

The auditor general, his deputy and one other member of his staff shall be exempt from classified civil service. All other members of his staff shall have classified civil service status.

ARTICLE V
Executive Branch

Sec. 1. The executive power is vested in the governor.

Sec. 2. All executive and administrative offices, agencies and instrumentalities of the executive branch of state government and their respective functions, powers and

duties, except for the office of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes.

Subsequent to the initial allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders and submitted to the legislature. Thereafter the legislature shall have 60 calendar days of a regular session, or a full regular session if of shorter duration, to disapprove each executive order. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, each order shall become effective at a date thereafter to be designated by the governor.

Sec. 3. The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer and an attorney general. When a single executive is the head of a principal department, unless elected or appointed as otherwise provided in this constitution, he shall be appointed by the governor by and with the advice and consent of the senate and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, unless elected or appointed as otherwise provided in this constitution, the members thereof shall be appointed by the governor by and with the advice and consent of the senate. The term of office and procedure for removal of such members shall be as prescribed in this constitution or by law.

Terms of office of any board or commission created or enlarged after the effective date of this constitution shall not exceed four years except as otherwise authorized in this constitution. The terms of office of existing boards and commissions which are longer than four years shall not be further extended except as provided in this constitution.

Sec. 4. Temporary commissions or agencies for special purposes with a life of no more than two years may be established by law and need not be allocated within a principal department.

Sec. 5. A majority of the members of an appointed examining or licensing board of a profession shall be members of that profession.

Sec. 6. Appointment by and with the advice and consent of the senate when used in this constitution or laws in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 session days after the date of such appointment. Any appointment not disapproved within such period shall stand confirmed.

Sec. 7. Vacancies in any office, appointment to which requires advice and consent of the senate, shall be filled by the governor by and with the advice and consent of the senate. A person whose appointment has been disapproved by the senate shall not be eligible for an interim appointment to the same office.

Sec. 8. Each principal department shall be under the supervision of the governor unless otherwise provided by this constitution. The governor shall take care that the laws be faithfully executed. He shall transact all necessary business with the officers of

government and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may initiate court proceedings in the name of the state to enforce compliance with any constitutional or legislative mandate, or to restrain violations of any constitutional or legislative power, duty or right by any officer, department or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize court proceedings against the legislature.

Sec. 9. Single executives heading principal departments and the chief executive officers of principal departments headed by boards or commissions shall keep their offices at the seat of government except as otherwise provided by law, superintend them in person and perform duties prescribed by law.

Sec. 10. The governor shall have power and it shall be his duty to inquire into the condition and administration of any public office and the acts of any public officer, elective or appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or for any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and shall report the reasons for such removal or suspension to the legislature.

Sec. 11. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an appointed or elected officer, other than a legislative or judicial officer, until he is reinstated or until the vacancy is filled in the manner prescribed by law or this constitution.

Sec. 12. The governor shall be commander-in-chief of the armed forces and may call them out to execute the laws, suppress insurrection and repel invasion.

Sec. 13. The governor shall issue writs of election to fill vacancies in the senate or house of representatives. Any such election shall be held in a manner prescribed by law.

Sec. 14. The governor shall have power to grant reprieves, commutations and pardons after convictions for all offenses, except cases of impeachment, upon such conditions and limitations as he may direct, subject to procedures and regulations prescribed by law. He shall inform the legislature annually of each reprieve, commutation and pardon granted, stating reasons therefor.

Sec. 15. The governor may convene the legislature on extraordinary occasions.

Sec. 16. The governor may convene the legislature at some other place when the seat of government becomes dangerous from any cause.

Sec. 17. The governor shall communicate by message to the legislature at the beginning of each session and may at other times present to the legislature information as to the affairs of the state and recommend measures he considers necessary or desirable.

Sec. 18. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, for all operating funds, the proposed expenditures and estimated revenue of the state. Proposed expenditures from any fund shall not exceed the estimated revenue thereof. On the same date, the governor shall submit to the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills to provide new or additional revenues to meet proposed expenditures. The amount of any surplus created or deficit incurred in any fund during the last preceding fiscal period shall be entered as an item in the budget and in one of the appropriation bills. The governor may submit amendments to appropriation bills to be offered in either house during consideration of the bill by that house, and shall submit bills to meet deficiencies in current appropriations.

Sec. 19. The governor may disapprove any distinct item or items appropriating moneys in any appropriation bill. The part or parts approved shall become law, and the item or items disapproved shall be void unless re-passed according to the method prescribed for the passage of other bills over the executive veto.

Sec. 20. No appropriation shall be a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures authorized by appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based. Reductions in expenditures shall be made in accordance with procedures prescribed by law. The governor may not reduce expenditures of the legislative and judicial branches or from funds constitutionally dedicated for specific purposes.

Sec. 21. The governor, lieutenant governor, secretary of state and attorney general shall be elected for four-year terms at the general election in each alternate even-numbered year.

The lieutenant governor, secretary of state and attorney general shall be nominated by party conventions in a manner prescribed by law. In the general election one vote shall be cast jointly for the candidates for governor and lieutenant governor nominated by the same party.

Vacancies in the office of the secretary of state and attorney general shall be filled by appointment by the governor.

Sec. 22. To be eligible for the office of governor or lieutenant governor a person must have attained the age of 30 years, and have been a registered elector in this state for four years next preceding his election.

Sec. 23. The governor, lieutenant governor, secretary of state and attorney general shall each receive the compensation provided by law in full payment for all services performed and expenses incurred during his term of office. Such compensation shall not be changed during the term of office except as otherwise provided in this constitution.

Sec. 24. An executive residence suitably furnished shall be provided at the seat of government for the use of the governor. He shall receive an allowance for its maintenance as provided by law.

Sec. 25. The lieutenant governor shall be president of the senate, but shall have no vote, unless they be equally divided. He may perform duties requested of him by the governor, but no power vested in the governor shall be delegated.

Sec. 26. In case of the conviction of the governor on impeachment, his removal from office, his resignation or his death, the lieutenant governor, the elected secretary of state, the elected attorney general and such other persons designated by law shall in that order be governor for the remainder of the governor's term.

In case of the death of the governor-elect, the lieutenant governor-elect, the secretary of state-elect, the attorney general-elect and such other persons designated by law shall become governor in that order at the commencement of the governor-elect's term.

If the governor or the person in line of succession to serve as governor is absent from the state, or suffering under an inability, the powers and duties of the office of governor shall devolve in order of precedence until the absence or inability giving rise to the devolution of powers ceases.

The inability of the governor or person acting as governor shall be determined by a majority of the supreme court on joint request of the president pro tempore of the senate and the speaker of the house of representatives. Such determination shall be final

and conclusive. The supreme court shall upon its own initiative determine if and when the inability ceases.

Sec. 27. The legislature shall provide that the salary of any state officer while acting as governor shall be equal to that of the governor.

Sec. 28. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as provided by law.

The state highway commission shall consist of four members, not more than two of whom shall be members of the same political party. They shall be appointed by the governor by and with the advice and consent of the senate for four-year terms, no two of which shall expire in the same year, as provided by law.

The state highway commission shall appoint and may remove a state highway director, who shall be a competent highway engineer and administrator. He shall be the principal executive officer of the state highway department and shall be responsible for executing the policy of the state highway commission.

Sec. 29. There is hereby established a civil rights commission which shall consist of eight persons, not more than four of whom shall be members of the same political party, who shall be appointed by the governor, by and with the advice and consent of the senate, for four-year terms not more than two of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

Appeals from final orders of the commission, including cease and desist orders and refusals to issue complaints, shall be tried de novo before the circuit court having jurisdiction provided by law.

ARTICLE VI

Judicial Branch

Sec. 1. The judicial power of the state is vested exclusively in one court of justice which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and courts of limited jurisdiction that the legislature may establish by a two-thirds vote of the members elected to and serving in each house.

Sec. 2. The supreme court shall consist of seven justices elected at non-partisan elections as provided by law. The term of office shall be eight years and not more than

two terms of office shall expire at the same time. Nominations for justices of the supreme court shall be in the manner prescribed by law. Any incumbent justice whose term is to expire may become a candidate for re-election by filing an affidavit of candidacy, in the form and manner prescribed by law, not less than 180 days prior to the expiration of his term.

Sec. 3. One justice of the supreme court shall be selected by the court as its chief justice as provided by rules of the court. He shall perform duties required by the court. The supreme court shall appoint an administrator of the courts and other assistants of the supreme court as may be necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.

Sec. 4. The supreme court shall have general superintending control over all courts; power to issue, hear and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.

Sec. 5. The supreme court shall by general rules establish, modify, amend and simplify the practice and procedure in all courts of this state. The distinctions between law and equity proceedings shall, as far as practicable, be abolished. The office of master in chancery is prohibited.

Sec. 6. Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent.

Sec. 7. The supreme court may appoint, may remove, and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of moneys appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

Sec. 8. The court of appeals shall consist initially of nine judges who shall be nominated and elected at non-partisan elections from districts drawn on county lines and as nearly as possible of equal population, as provided by law. The supreme court may prescribe by rule that the court of appeals sit in divisions and for the terms of court and the times and places thereof. Each such division shall consist of not fewer than three judges. The number of judges comprising the court of appeals may be increased, and the districts from which they are elected may be changed by law.

Sec. 9. Judges of the court of appeals shall hold office for a term of six years and until their successors are elected and qualified. The terms of office for the judges in each district shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 10. The jurisdiction of the court of appeals shall be provided by law and the practice and procedure therein shall be prescribed by rules of the supreme court.

Sec. 11. The state shall be divided into judicial circuits along county lines in each of which there shall be elected one or more circuit judges as provided by law. Sessions of the circuit court shall be held at least four times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or

counties within the circuit in which he is elected, and in other circuits as may be provided by rules of the supreme court. The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall be created, altered and discontinued on recommendation of the supreme court to reflect changes in judicial activity. No change in the number of judges or alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.

Sec. 12. Circuit judges shall be nominated and elected at non-partisan elections in the circuit in which they reside, and shall hold office for a term of six years and until their successors are elected and qualified. In circuits having more than one circuit judge their terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 13. The circuit court shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court.

Sec. 14. The clerk of each county organized for judicial purposes or other officer performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such county. The judges of the circuit court may fill a vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions.

Sec. 15. In each county organized for judicial purposes there shall be a probate court. The legislature may create or alter probate court districts of more than one county if approved in each affected county by a majority of the electors voting on the question. The legislature may provide for the combination of the office of probate judge with any judicial office of limited jurisdiction within a county with supplemental salary as provided by law. The jurisdiction, powers and duties of the probate court and of the judges thereof shall be provided by law. They shall have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. 16. One or more judges of probate as provided by law shall be nominated and elected at non-partisan elections in the counties or the probate districts in which they reside and shall hold office for terms of six years and until their successors are elected and qualified. In counties or districts with more than one judge the terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 17. No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or the amount of judicial activity of his office.

Sec. 18. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within a circuit, and of the probate judges within a county or district, shall be uniform, and may be increased but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

Each of the judges of the circuit court shall receive an annual salary as provided by law. In addition to the salary received from the state, each circuit judge may receive from any county in which he regularly holds court an additional salary as determined

from time to time by the board of supervisors of the county. In any county where an additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

Sec. 19. The supreme court, the court of appeals, the circuit court, the probate court and other courts designated as such by the legislature shall be courts of record and each shall have a common seal. Justices and judges of courts of record must be persons who are licensed to practice law in this state. No person shall be elected or appointed to a judicial office after reaching the age of 70 years.

Sec. 20. Whenever a justice or judge removes his domicile beyond the limits of the territory from which he was elected, he shall have vacated his office.

Sec. 21. Any justice or judge of a court of record shall be ineligible to be nominated for or elected to an elective office other than a judicial office during the period of his service and for one year thereafter.

Sec. 22. Any elected judge of the court of appeals, circuit court or probate court may become a candidate in the primary election for the office of which he is the incumbent by filing an affidavit of candidacy in the form and manner prescribed by law.

Sec. 23. A vacancy in the elective office of a judge of any court of record shall be filled at a general or special election as provided by law. The supreme court may authorize persons who have served as judges and who have retired, to perform judicial duties for the limited period of time from the occurrence of the vacancy until the successor is elected and qualified. Such persons shall be ineligible for election to fill the vacancy.

Sec. 24. There shall be printed upon the ballot under the name of each elected incumbent justice or judge who is a candidate for nomination or election to the same office the designation of that office.

Sec. 25. For reasonable cause, which is not sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of two-thirds of the members elected to and serving in each house of the legislature. The cause for removal shall be stated at length in the resolution.

Sec. 26. The offices of circuit court commissioner and justice of the peace are abolished at the expiration of five years from the date this constitution becomes effective or may within this period be abolished by law. Their jurisdiction, compensation and powers within this period shall be as provided by law. Within this five-year period, the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law. The location of such court or courts, and the qualifications, tenure, method of election and salary of the judges of such court or courts, and by what governmental units the judges shall be paid, shall be provided by law, subject to the limitations contained in this article.

Statutory courts in existence at the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until they are abolished by law.

Sec. 27. The supreme court, the court of appeals, the circuit court, or any justices or judges thereof, shall not exercise any power of appointment to public office except as provided in this constitution.

Sec. 28. All final decisions, findings, rulings and orders of any administrative officer or agency existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights or licenses, shall be subject to direct review by the courts as

provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law; and, in cases in which a hearing is required, whether the same are supported by competent, material and substantial evidence on the whole record. Findings of fact in workmen's compensation proceedings shall be conclusive in the absence of fraud unless otherwise provided by law.

In the absence of fraud, error of law or the adoption of wrong principles, no appeal may be taken to any court from any final agency provided for the administration of property tax laws from any decision relating to valuation or allocation.

Sec. 29. Justices of the supreme court, judges of the court of appeals, circuit judges and other judges as provided by law shall be conservators of the peace within their respective jurisdictions.

ARTICLE VII

Local Government

Sec. 1. Each organized county shall be a body corporate with powers and immunities provided by law.

Sec. 2. Any county may frame, adopt, amend or repeal a county charter in a manner and with powers and limitations to be provided by general law, which shall among other things provide for the election of a charter commission. The law may permit the organization of county government in form different from that set forth in this constitution and shall limit the rate of ad valorem property taxation for county purposes, and restrict the powers of charter counties to borrow money and contract debts. Each charter county is hereby granted power to levy other taxes for county purposes subject to limitations and prohibitions set forth in this constitution or law. Subject to law, a county charter may authorize the county through its regularly constituted authority to adopt resolutions and ordinances relating to its concerns.

The board of supervisors by a majority vote of its members may, and upon petition of five percent of the electors shall, place upon the ballot the question of electing a commission to frame a charter.

No county charter shall be adopted, amended or repealed until approved by a majority of electors voting on the question.

Sec. 3. No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed by the United States, unless approved in the manner prescribed by law by a majority of electors voting thereon in each county to be affected.

Sec. 4. There shall be elected for four-year terms in each organized county a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be provided by law. The board of supervisors in any county may combine the offices of county clerk and register of deeds in one office or separate the same at pleasure.

Sec. 5. The sheriff, county clerk, county treasurer and register of deeds shall hold their principal offices at the county seat.

Sec. 6. The sheriff may be required by law to renew his security periodically and in default of giving such security, his office shall be vacant. The county shall never be responsible for his acts, except that the board of supervisors may protect him against

claims by prisoners for unintentional injuries received while in his custody. He shall not hold any other office except in civil defense.

Sec. 7. A board of supervisors shall be established in each organized county consisting of one member from each organized township and such representation from cities as provided by law.

Sec. 8. Boards of supervisors shall have legislative, administrative and such other powers and duties as provided by law.

Sec. 9. Boards of supervisors shall have exclusive power to fix the compensation of county officers not otherwise provided by law.

Sec. 10. A county seat once established shall not be removed until the place to which it is proposed to be moved shall be designated by two-thirds of the members of the board of supervisors and a majority of the electors voting thereon shall have approved the proposed location in the manner prescribed by law.

Sec. 11. No county shall incur any indebtedness which shall increase its total debt beyond 10 percent of its assessed valuation.

Sec. 12. A navigable stream shall not be bridged or dammed without permission granted by the board of supervisors of the county as provided by law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and political subdivisions therein.

Sec. 13. Two or more contiguous counties may combine into a single county if approved in each affected county by a majority of the electors voting on the question.

Sec. 14. The board of supervisors of each organized county may organize and consolidate townships under restrictions and limitations provided by law.

Sec. 15. Any county, when authorized by its board of supervisors shall have the authority to enter or to intervene in any action or certificate proceeding involving the services, charges or rates of any privately owned public utility furnishing services or commodities to rate payers within the county.

Sec. 16. The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the state and by the counties and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The legislature may provide the powers and duties of counties in relation to highways, bridges, culverts and airports; may provide for county road commissioners to be appointed or elected, with powers and duties provided by law. The ad valorem property tax imposed for road purposes by any county shall not exceed in any year one-half of one percent of the assessed valuation for the preceding year.

Sec. 17. Each organized township shall be a body corporate with powers and immunities provided by law.

Sec. 18. In each organized township there shall be elected for terms of not less than two nor more than four years as prescribed by law a supervisor, a clerk, a treasurer, and not to exceed four trustees, whose legislative and administrative powers and duties shall be provided by law.

Sec. 19. No organized township shall grant any public utility franchise which is not subject to revocation at the will of the township, unless the proposition shall first have been approved by a majority of the electors of such township voting thereon at a regular or special election.

Sec. 20. The legislature shall provide by law for the dissolution of township government whenever all the territory of an organized township is included within the boundaries of a village or villages notwithstanding that a village may include territory within another organized township and provide by law for the classification of such village or villages as cities.

Sec. 21. The legislature shall provide by general laws for the incorporation of cities and villages. Such laws shall limit their rate of ad valorem property taxation for municipal purposes, and restrict the powers of cities and villages to borrow money and contract debts. Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.

Sec. 22. Under general laws the electors of each city and village shall have the power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village. Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall limit or restrict the general grant of authority conferred by this section.

Sec. 23. Any city or village may acquire, own, establish and maintain, within or without its corporate limits, parks, boulevards, cemeteries, hospitals and all works which involve the public health or safety.

Sec. 24. Subject to this constitution, any city or village may acquire, own or operate, within or without its corporate limits, public service facilities for supplying water, light, heat, power, sewage disposal and transportation to the municipality and the inhabitants thereof.

Any city or village may sell and deliver heat, power or light without its corporate limits in an amount not exceeding 25 percent of that furnished by it within the corporate limits, except as greater amounts may be permitted by law; may sell and deliver water and provide sewage disposal services outside of its corporate limits in such amount as may be determined by the legislative body of the city or village; and may operate transportation lines outside the municipality within such limits as may be prescribed by law.

Sec. 25. No city or village shall acquire any public utility furnishing light, heat or power, or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless the proposition shall first have been approved by three-fifths of the electors voting thereon. No city or village may sell any public utility unless the proposition shall first have been approved by a majority of the electors voting thereon, or a greater number if the charter shall so provide.

Sec. 26. Except as otherwise provided in this constitution, no city or village shall have the power to loan its credit for any private purpose or, except as provided by law, for any public purpose.

Sec. 27. Notwithstanding any other provision of this constitution the legislature may establish in metropolitan areas additional forms of government or authorities with powers, duties and jurisdictions as the legislature shall provide. Wherever possible, such additional forms of government or authorities shall be designed to perform multi-purpose functions rather than a single function.

Sec. 28. The legislature by general law shall authorize two or more counties, townships, cities, villages or districts, or any combination thereof among other things to:

enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government; lend their credit to one another or any combination thereof as provided by law in connection with any authorized publicly owned undertaking.

Any other provision of this constitution notwithstanding, an officer or employee of the state or any such unit of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service.

Sec. 29. No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, township, city or village for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, township, city or village; or to transact local business therein without first obtaining a franchise from the township, city or village. Except as otherwise provided in this constitution the right of all counties, townships, cities and villages to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.

Sec. 30. No franchise or license shall be granted by any township, city or village for a period longer than 30 years.

Sec. 31. The legislature shall not vacate or alter any road, street, alley or public place under the jurisdiction of any county, township, city or village.

Sec. 32. Any county, township, city, village, authority or school district empowered by the legislature or by this constitution to prepare budgets of estimated expenditures and revenues shall adopt such budgets only after a public hearing in a manner prescribed by law.

Sec. 33. Any elected officer of a political subdivision may be removed from office in the manner and for the causes provided by law.

Sec. 34. The provisions of this constitution and law concerning counties, townships, cities and villages shall be liberally construed in their favor. Powers granted to counties and townships by this constitution and by law shall include those fairly implied and not prohibited by this constitution.

ARTICLE VIII

Education

Sec. 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Sec. 2. The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.

Sec. 3. Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies. He shall be the principal executive officer of a state department of education which shall have powers and duties provided by law.

The state board of education shall consist of eight members who shall be nominated by party conventions and elected at large for terms of eight years as prescribed by law. The governor shall fill any vacancy by appointment for the unexpired term. The governor shall be ex-officio a member of the state board of education without the right to vote.

The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section.

Sec. 4. The legislature shall appropriate moneys to maintain the University of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, by whatever names such institutions may hereafter be known, and other institutions of higher education established by law. The legislature shall be given an annual accounting of all income and expenditures by each of these educational institutions. Formal sessions of governing boards of such institutions shall be open to the public.

Sec. 5. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. Each board shall have general supervision of its institution and the control and direction of all expenditures from the institution's funds. Each board shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution, be ex-officio a member of the board without the right to vote and preside at meetings of the board. The board of each institution shall consist of eight members who shall hold office for terms of eight years and who shall be elected as provided by law. The governor shall fill board vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as provided by law.

Sec. 6. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. It shall, as often as necessary, elect a president of the institution under its supervision.

He shall be the principal executive officer of the institution and be ex-officio a member of the board without the right to vote. The board may elect one of its members or may designate the president, to preside at board meetings. Each board of control shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the governor by and with the advice and consent of the senate. Vacancies shall be filled in like manner.

Sec. 7. The legislature shall provide by law for the establishment and financial support of public community and junior colleges which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the state board of education. Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex-officio a member of this board without the right to vote.

Sec. 8. Institutions, programs and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally or otherwise seriously handicapped shall always be fostered and supported.

Sec. 9. The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof. All fines assessed and collected in the several counties, townships and cities for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law.

ARTICLE IX

Finance and Taxation

Sec. 1. The legislature shall impose taxes sufficient with other resources to pay the expenses of state government.

Sec. 2. The power of taxation shall never be surrendered, suspended or contracted away.

Sec. 3. The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 percent; and for a system of equalization of assessments. The legislature may provide for alternative means of taxation of designated real and tangible personal property in lieu of general ad valorem taxation. Every tax other than the general ad valorem property tax shall be uniform upon the class or classes on which it operates.

Sec. 4. Property owned and occupied by non-profit religious or educational organizations and used exclusively for religious or educational purposes, as defined by law, shall be exempt from real and personal property taxes.

Sec. 5. The legislature shall provide for the assessment by the state of the property of those public service businesses assessed by the state at the date this constitution becomes effective, and of other property as designated by the legislature,

and for the imposition and collection of taxes thereon. Property assessed by the state shall be assessed at the same proportion of its true cash value as the legislature shall specify for property subject to general ad valorem taxation. The rate of taxation on such property shall be the average rate levied upon other property in this state under the general ad valorem tax law, or, if the legislature provides, the rate of tax applicable to the property of each business enterprise assessed by the state shall be the average rate of ad valorem taxation levied upon other property in all counties in which any of such property is situated.

Sec. 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount; or to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

Sec. 7. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

Sec. 8. The legislature shall not impose a sales tax on retailers at a rate of more than four percent of their gross taxable sales of tangible personal property.

Sec. 9. All specific taxes, except general sales and use taxes and regulatory fees, imposed directly or indirectly on fuels sold or used to propel motor vehicles upon highways and on registered motor vehicles shall, after the payment of necessary collection expenses, be used exclusively for highway purposes as defined by law.

Sec. 10. One-eighth of all taxes imposed on retailers on taxable sales at retail of tangible personal property shall be used exclusively for assistance to townships, cities and villages, on a population basis as provided by law. In determining population the legislature may exclude any portion of the total number of persons who are wards, patients or convicts in any tax supported institution.

Sec. 11. There shall be established a state school aid fund which shall be used exclusively for aid to school districts, higher education and school employees' retirement systems, as provided by law. One-half of all taxes imposed on retailers on taxable sales at retail of tangible personal property, and other tax revenues provided by law, shall

be dedicated to this fund. Payments from this fund shall be made in full on a scheduled basis, as provided by law.

Sec. 12. No evidence of state indebtedness shall be issued except for debts authorized pursuant to this constitution.

Sec. 13. Public bodies corporate shall have power to borrow money and to issue their securities evidencing debt, subject to this constitution and law.

Sec. 14. To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 percent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

Sec. 15. The state may borrow money for specific purposes in amounts as may be provided by acts of the legislature adopted by a vote of two-thirds of the members elected to and serving in each house, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

Sec. 16. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

If the minimum amount which would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as finally equalized, or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall lend the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall lend to it an amount sufficient to enable the school district to make the payment.

The term "qualified bonds" means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued prior to May 4, 1955, or issued thereafter and qualified as provided by law pursuant to Section 27 or Section 28 of Article X of the Constitution of 1908 or pursuant to this section.

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used toward the repayment of state loans. In any year when such levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Subject to the foregoing provisions, the legislature shall have the power to prescribe and to limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

The power to tax for the payment of principal and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made to school districts, shall be without limitation as to rate or amount.

All rights acquired under Sections 27 and 28 of Article X of the Constitution of 1908, by holders of bonds heretofore issued, and all obligations assumed by the state or any school district under these sections, shall remain unimpaired.

Sec. 17. No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

Sec. 18. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

This section shall not be construed to prohibit the investment of public funds until needed for current requirements or the investment of funds accumulated to provide retirement or pension benefits for public officials and employees, as provided by law.

Sec. 19. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation, except that funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law; and endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

Sec. 20. No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money shall be deposited in any bank in excess of 50 percent of the capital and surplus of such bank. Any bank receiving deposits of state money shall show the amount of state money so deposited as a separate item in all published statements.

Sec. 21. The legislature shall provide by law for the annual accounting for all public moneys, state and local, and may provide by law for interim accounting.

The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.

Sec. 22. Procedures for the examination and adjustment of claims against the state shall be prescribed by law.

Sec. 23. All financial records, accountings, audit reports and other reports of public moneys shall be public records and open to inspection. A statement of all revenues and expenditures of public moneys shall be published and distributed annually, as provided by law.

Sec. 24. The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby.

Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be used for financing unfunded accrued liabilities.

ARTICLE X
Property

Sec. 1. The disabilities of coverture as to property are abolished. The real and personal estate of every woman acquired before marriage and all real and personal

property to which she may afterwards become entitled shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be dealt with and disposed of by her as if she were unmarried. Dower may be relinquished or conveyed as provided by law.

Sec. 2. Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law. Compensation shall be determined in proceedings in a court of record.

Sec. 3. A homestead in the amount of not less than $3,500 and personal property of every resident of this state in the amount of not less than $750, as defined by law, shall be exempt from forced sale on execution or other process of any court. Such exemptions shall not extend to any lien thereon excluded from exemption by law.

Sec. 4. Procedures relating to escheats and to the custody and disposition of escheated property shall be prescribed by law.

Sec. 5. The legislature shall have general supervisory jurisdiction over all state owned lands useful for forest preserves, game areas and recreational purposes; shall require annual reports as to such lands from all departments having supervision or control thereof; and shall by general law provide for the sale, lease or other disposition of such lands.

The legislature by an act adopted by two-thirds of the members elected to and serving in each house may designate any part of such lands as a state land reserve. No lands in the state land reserve may be removed from the reserve, sold, leased or otherwise disposed of except by an act of the legislature.

Sec. 6. Aliens who are residents of this state shall enjoy the same rights and privileges in property as citizens of this state.

ARTICLE XI

Public Officers and Employment

Sec. 1. All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of ..... according to the best of my ability. No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.

Sec. 2. The terms of office of elective state officers, members of the legislature and justices and judges of courts of record shall begin at twelve o'clock noon on the first day of January next succeeding their election, except as otherwise provided in this constitution. The terms of office of county officers shall begin on the first day of January next succeeding their election, except as otherwise provided by law.

Sec. 3. Neither the legislature nor any political subdivision of this state shall grant or authorize extra compensation to any public officer, agent or contractor after the service has been rendered or the contract entered into.

Sec. 4. No person having custody or control of public moneys shall be a member of the legislature, or be eligible to any office of trust or profit under this state, until he shall have made an accounting, as provided by law, of all sums for which he may be liable.

Sec. 5. The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the principal executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legislature, employees of the state institutions of higher education, all persons in the armed forces of the state, eight exempt positions in the office of the governor, and within each principal department, when requested by the department head, two other exempt positions, one of which shall be policy-making. The civil service commission may exempt three additional positions of a policy-making nature within each principal department.

The civil service commission shall be non-salaried and shall consist of four persons, not more than two of whom shall be members of the same political party, appointed by the governor for terms of eight years, no two of which shall expire in the same year.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

No person shall be appointed to or promoted in the classified service who has not been certified by the commission as qualified for such appointment or promotion. No appointments, promotions, demotions or removals in the classified service shall be made for religious, racial or partisan considerations.

Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year. Within 60 calendar days following such transmission, the legislature may, by a two-thirds vote of the members elected to and serving in each house, reject or reduce increases in rates of compensation authorized by the commission. Any reduction ordered by the legislature shall apply uniformly to all classes of employees affected by the increases and shall not adjust pay differentials already established by the civil service commission. The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission.

The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition or creation of a position shall have a right of appeal to the commission through established grievance procedures.

The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within six months after the conclusion of each fiscal year the commission shall return to the state treasury all moneys unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

No payment for personal services shall be made or authorized until the provisions of this constitution pertaining to civil service have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

Sec. 6. By ordinance or resolution of its governing body which shall not take effect until approved by a majority of the electors voting thereon, unless otherwise provided by charter, each county, township, city, village, school district and other governmental unit or authority may establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services to any such unit on a reimbursable basis.

Sec. 7. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected thereto and serving therein shall be necessary to direct an impeachment.

When an impeachment is directed, the house of representatives shall elect three of its members to prosecute the impeachment.

Every impeachment shall be tried by the senate immediately after the final adjournment of the legislature. The senators shall take an oath or affirmation truly and impartially to try and determine the impeachment according to the evidence. When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside.

No person shall be convicted without the concurrence of two-thirds of the senators elected and serving. Judgment in case of conviction shall not extend further than removal from office, but the person convicted shall be liable to punishment according to law.

No judicial officer shall exercise any of the functions of his office after an impeachment is directed until he is acquitted.

ARTICLE XII

Amendment and Revision

Sec. 1. Amendments to this constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by two-thirds of the members elected to and serving in each house on a vote with the names and vote of those voting entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct. If a majority of electors voting on a proposed amendment approve the same, it shall become part of the constitution and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved.

Sec. 2. Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. The person authorized by law to receive such petition shall upon its receipt determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next general election. Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.

If the proposed amendment is approved by a majority of the electors voting on the question, it shall become part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. If two or more amendments approved by the electors at the same election conflict, that amendment receiving the highest affirmative vote shall prevail.

Sec. 3. At the general election to be held in the year 1978, and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than six months after the proposal was certified as approved, the electors of each representative district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate at a partisan election. The delegates so elected shall convene at the seat of government on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. To fill a vacancy in the office of any delegate, the governor shall appoint a qualified resident of the same district who shall be a member of the same party as the delegate vacating the office. The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of

the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, with the names and vote of those voting entered in the journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

Schedule and Temporary Provisions

To insure the orderly transition from the constitution of 1908 to this constitution the following schedule and temporary provisions are set forth to be effective for such period as are thereby required.

Sec. 1. The attorney general shall recommend to the legislature as soon as practicable such changes as may be necessary to adapt existing laws to this constitution.

Sec. 2. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights existing on the effective date of this constitution shall continue unaffected except as modified in accordance with the provisions of this constitution.

Sec. 3. Except as otherwise provided in this constitution, all officers filling any office by election or appointment shall continue to exercise their powers and duties until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or the laws enacted pursuant thereto.

No provision of this constitution, or of law or of executive order authorized by this constitution shall shorten the term of any person elected to state office at a statewide election on or prior to the date on which this constitution is submitted to a vote. In the event the duties of any such officers shall not have been abolished or incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated or abolished.

Sec. 4. All officers elected at the same election that this constitution is submitted to the people for adoption shall take office and complete the term to which they were elected under the 1908 constitution and existing laws and continue to serve until their successors are elected and qualified pursuant to this constitution or law.

Sec. 5. Notwithstanding any other provision in this constitution, the governor, the lieutenant governor, the secretary of state, the attorney general and state senators shall be elected at the general election in 1964 to serve for two-year terms beginning on the first day of January next succeeding their election. The first election of such officers for four-year terms under this constitution shall be held at the general election in 1966.

Sec. 6. Notwithstanding the provisions of this constitution that the supreme court shall consist of seven justices it shall consist of eight justices until the time that a vacancy occurs as a result of death, retirement or resignation of a justice. The first such vacancy shall not be filled.

Sec. 7. Any judge of probate serving on the effective date of this constitution may serve the remainder of the term and be eligible to succeed himself for election

regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

Sec. 8. The provisions of Article VI providing that terms of judicial offices shall not all expire at the same time, shall be implemented by law providing that at the next election for such offices judges shall be elected for terms of varying length, none of which shall be shorter than the regular term provided for the office.

Sec. 9. The members of the state board of education provided for in Section 3 of Article VIII of this constitution shall first be elected at the first general election after the effective date of this constitution for the following terms: two shall be elected for two years, two for four years, two for six years, and two for eight years as prescribed by law.

The state board of education provided for in the constitution of 1908 is abolished at twelve o'clock noon January 1 of the year following the first general election under this constitution and the terms of members thereof shall then expire.

Sec. 10. The provisions of this constitution providing for members of boards of control of institutions of higher education and the state board of public community and junior colleges shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended, and may further provide that the initial terms of office of members may be less than eight years.

Sec. 11. The provisions of this constitution increasing the number of members of the Board of Trustees of Michigan State University and of the Board of Governors of Wayne State University to eight, and of their term of office to eight years, shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended one year, and may further provide that the initial terms of office of the additional members may be less than eight years.

Sec. 12. The initial allocation of departments by law pursuant to Section 2 of Article V of this constitution, shall be completed within two years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make the initial allocation.

Sec. 13. Contractual obligations of the state incurred pursuant to the constitution of 1908 shall continue to be obligations of the state.

For the retirement of notes and bonds issued under Section 26 of Article X of the 1908 constitution, there is hereby appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each year.

Sec. 14. The legislature by a vote of two-thirds of the members elected to and serving in each house may provide that the state may borrow money and may pledge its full faith and credit for refunding any bonds issued by the Mackinac Bridge Authority and at the time of refunding the Mackinac Bridge Authority shall be abolished and the operation of the bridge shall be assumed by the state highway department. The legislature may implement this section by law.

Sec. 15. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the first Monday in April, 1963. It shall be the duty of the secretary of state forthwith to give notice of such submission to all

other officers required to give or publish any notice in regard to a general election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.

Sec. 16. Every registered elector may vote on the adoption of the constitution. The board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office, the words: Shall the revised constitution be adopted? ( ) Yes. ( ) No. All votes cast at the election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. If the revised constitution so submitted receives more votes in its favor than were cast against it, it shall be the supreme law of the state on and after the first day of January of the year following its adoption.

Adopted by the Constitutional Convention of nineteen hundred sixty-one at Constitution Hall in Lansing on the first day of August, nineteen hundred sixty-two.

Stephen S. Nisbet

Stephen S. Nisbet, *President*

Fred I. Chase

Fred I. Chase, *Secretary*

[ADDRESS TO THE PEOPLE]

What the Proposed New State Constitution Means to You

- **A report to the people of Michigan by their elected delegates to the Constitutional Convention of 1961-62.**

Lansing, Michigan

August 1, 1962

This is a revision of Sec. 11, Article VII, of the present constitution adding new language to recognize the possibility that some officer, other than the county clerk, may be empowered to be clerk of the circuit court in charter counties. The words "an elective office" are inserted to clarify previous ambiguous wording in the section.

The clause, "but shall not exercise any other power of appointment to public office," is deleted from the conclusion of the last sentence but appears under the General Provisions of this Article.

PROBATE COURTS

Probate courts; jurisdiction.

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.*

This is a revision of Sec. 13, Article VII, of the present constitution to permit the legislature to combine counties into probate districts with the approval of a majority of the voters of each county involved. It also permits the legislature to provide for the combination of the office of probate court with any judicial office of a court of limited jurisdiction within a county.

These permissive provisions are included to make possible better administration of these courts in the smaller counties of the state.

The probate court continues to have original jurisdiction in all cases involving juvenile delinquents and dependent juveniles, unless otherwise provided by law. This will permit the legislature greater flexibility in the future in determining the best method within our court system for the handling of juvenile matters, including the possibility of creating a family court.

Probate courts; judges; elections.

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.*

This is a revision of Sec. 14, Article VII, of the present constitution to provide for the non-partisan nomination and election of probate judges.

The term of probate judges is increased from four to six years. New language in the second sentence of the section directs that in counties or districts with more than one judge their terms shall not expire at the same time.

GENERAL PROVISIONS

Salaries; restriction.

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.

This is a new section abolishing the fee system for the compensation of judges. It also specifies that payment to judges shall not be based on the amount of litigation handled in their courts.

Salaries; uniformity.

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.

The first paragraph of this section is new language designed to assure uniform salaries for all judges within a certain district. It likewise removes the restriction of Sec. 3, Article XVI, of the present constitution which, as it now stands, prohibits the increase of salaries of any supreme court justices during their term of office. This restriction has resulted in serious inequities in salary range among judges whose terms expire at different times.

The section also provides for decreases in the salaries of the judiciary, but only if general salary reductions are made in each of the other branches of the government.

The second paragraph is a revision of Sec. 12, Article VII, of the present constitution to permit "annual" salary rather than "salary payable monthly" for circuit judges.

Courts of record; seal; qualifications of judges.

Sec. 19. The supreme court, *the court of appeals,* the circuit *court, the* probate *court and other* courts *designated as such by the legislature*