

# Michigan Constitutional Convention of 1961

## Committee Proposal 96i

### Const 1963, Art 6, § 26

#### Relevant Material From the Constitutional Convention Record

|                                          |                                                      |
|------------------------------------------|------------------------------------------------------|
| Cross-Reference and Indices .....        | pp. 3436, 3452, 3467                                 |
| First Reading .....                      | pp. 757, 1478-1481, 1537-1541, 1621, 1630-1633, 2191 |
| Second Reading .....                     | pp. 2690-2691, 2696-2703, 2711-2712                  |
| Draft Constitution (Art 6, § 26) .....   | pp. 3047-3075 (p. 3062)                              |
| Third Reading, Article-by-Article .....  | pp. 3125-3128, 3138-3140                             |
| Draft Constitution (Art 6, § 26) .....   | pp. 3215-3237 (p. 3227)                              |
| Third Reading, Full Constitution .....   | pp. 3238, 3292, 3300-3301                            |
| Adopted Constitution (Art 6, § 26) ..... | pp. 3319-3353 (p. 3337)                              |
| Address to the People .....              | pp. 3388-3389                                        |

#### Overview of the Constitutional Convention Process

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

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

**State of Michigan**  
**CONSTITUTIONAL CONVENTION**  
**1961 - 1962**  
**OFFICIAL RECORD**



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

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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 committee 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

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     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 <sup>1</sup> )                                                 |           |
| 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

If we do, then we believe that the executive and the legislative branches should not exercise the powers of the judiciary.

Now, in the development of our society, the legislature will pass laws; and either it will create in some instances—in fact, in many instances—an agency to enforce those laws, or the executive will do it. Obviously the legislature can't handle all of these things itself. So these agencies are created to enforce the laws. And these agencies lay down rules and they make determinations. In doing so, it is inevitable that they make judicial or quasi judicial findings that affect private rights. Now, in the first sentence of section a we recognize that condition as it exists, and we say that when any of these administrative, legislative or executive agencies—that's what they are—make findings that are judicial or quasi judicial and affect private rights, that those decisions shall be subject to direct review by the courts as provided by law. We come to what I said earlier. I think we have to determine whether we are going to have a government of men or of law. Certainly no one should object to judicial rights being determined according to law.

Now we go to the second sentence. All that second sentence says is that the review that is to be exercised by the court, as a minimum, shall determine first whether the decision of that administrative tribunal is authorized by law. In other words, did it exceed the law? Did it get into a field it shouldn't have gotten into, that it wasn't authorized to get into? Certainly, if we are to have a government of law, we can't object to that. We can object to individuals running over our private rights, just on their own whim, caprice or because of the autocratic nature they have assumed. And the other thing that it says is this—and this is all it says—it says if it's such a decision that a hearing is required, then they've got to make their decision based on reliable, probative and substantial evidence on the whole record. Again we come back to the fact that if the legislative and the executive are going to exercise judicial functions, they've got to have those decisions they make supported by reliable evidence. And certainly that is not too much to expect. We don't have tyranny here. We are supposed to be governed by law.

I am glad that Dr. Nord brought up the matter of the bar exam because I happen to have a son who is going to take the next bar exam, and he happens to be one of Dr. Nord's pupils, or is taking his refresher course. So I am vitally interested in this. But let's take his analogy. Would the bar examining board's decision be reviewable? According to this, the only thing that the court can determine is, first, in the first part of that second sentence, did it have authority to do what it is doing? And, secondly, if a hearing is required, is it supported by reliable, probative, and substantial evidence? Well, I didn't know a hearing was required in a bar exam. I don't think his example is at all applicable. I think it is indicative of the type of thing we've gotten into in this, where we are losing sight of the real issue.

I think it is important, to preserve our way of life, that a proper check be made on the exercise of authority by these administrative agencies. And that proper check is simply that they act according to law; and if they make findings on hearings, that there be some evidence to back up those findings. I ask that you vote against this amendment.

CHAIRMAN VAN DUSEN: Mr. Martin.

MR. MARTIN: Mr. Chairman, I have listened to the entire debate without commenting on this, because I wanted to know what the committee thought and what those who studied the problem thought.

I am impressed, first of all, by the tremendous scope of the proposal that is being made. There is no question at all but that this is one of the most far ranging proposals for change which we are making in this entire constitution. There is also no question but what there have been abuses in this field, and this proposal is designed to correct those abuses. At the same time, I recognize—and I think others of us recognize—that we have people whose rights and interests need to be protected on both sides of the controversies that may be involved before these administrative tribunals.

It is not only the question of the person whose property may

be taken by the decisions of these tribunals, but it is also a problem of seeing to it that the people who come before these tribunals with respect to workmen's compensation awards and other matters of that kind receive prompt action within reasonable time on the matters that they bring before these boards. Because it is true that they are in many cases people who cannot afford long protracted proceedings, and if they are carried through a long series of judicial reviews from one court to another there may be some serious problems for them that we have to be concerned about, too. I raised the question yesterday with regard to the introduction of the words "privileges and licenses." I understand that the change which we made in changing "erroneous" to "supported by" is a change which Mr. Cooper, who is one of the acknowledged authorities in the country, is doubtful about. Mr. Norris has spoken about the possibility of reconciling some of the language of this proposal with some of the problems which he sees.

I think we should pass the proposal; I intend to support the committee on this, but I think that in light of its importance, we can't just send it to style and drafting and then bring it back and act on it without further thought. I think it has to go to style and drafting, and in the meantime I think the committee should take another long look at it. I would like to know what Blythe Stason, for example, who is one of the great experts on administrative law in this state, thinks about it; and Mr. Cooper, as well; and some of the other people who know what the impact and import of this proposal would be. When we know that, then I think we may be in better position to determine what changes, if any, should be made, or whether it should be passed exactly as it is presented to us here.

I just want to record for the record my feeling that this is not the final look as far as I'm concerned, at least, and that all of us better take another long look at it before we make up our minds that this is the way it ought to be, finally, once and for all.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Messrs. Krolkowski and Bledsoe to strike all of section a of Committee Proposal 95. Those in favor of the amendment will say aye. Those opposed will say no.

The amendment is not adopted.

DELEGATES: Division.

CHAIRMAN VAN DUSEN: A division is requested. Is the demand supported? It is supported. Those in favor of the Krolkowski-Bledsoe 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. Krolkowski and Bledsoe, the yeas are 37, the nays are 83.

CHAIRMAN VAN DUSEN: The amendment is not adopted. Are there further amendments to Committee Proposal 95?

SECRETARY CHASE: There are none on file, Mr. Chairman.

CHAIRMAN VAN DUSEN: If not, it will pass.

Committee Proposal 95, as amended, is passed. The secretary will read the next committee proposal.

SECRETARY CHASE: From the committee on judicial branch, by Mr. Danhof, chairman, **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.

*Following is Committee Proposal 96 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. **THE SUPREME COURT, THE COURT OF APPEALS, THE CIRCUIT COURT, THE PROBATE COURT AND OTHER COURTS DESIGNATED BY THE LEGISLATURE SHALL BE COURTS OF RECORD AND SHALL EACH HAVE A COMMON SEAL. EXCEPT AS AUTHORIZED OTHERWISE BY THIS CONSTITUTION,**

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

JUSTICES AND JUDGES OF THE COURTS OF THIS STATE SHALL BE LAWYERS LICENSED TO PRACTICE LAW IN THIS STATE AND SHALL NOT BE ELECTED OR APPOINTED TO A JUDICIAL OFFICE AFTER REACHING THE AGE OF 70 YEARS. NO JUDGE OR JUSTICE OF ANY COURT IN THIS STATE SHALL BE PAID FROM THE FEES OF HIS OFFICE NOR SHALL THE AMOUNT OF HIS SALARY BE MEASURED BY THE FEES OR OTHER MONEYS RECEIVED NOR BY THE AMOUNT OF JUDICIAL ACTIVITY.

Sec. b. WHENEVER A JUDGE SHALL REMOVE HIS DOMICILE BEYOND THE LIMITS OF THE TERRITORY FROM WHICH HE WAS ELECTED, HE SHALL BE DEEMED TO HAVE VACATED HIS OFFICE.

Sec. c. A JUSTICE AND A 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 1 YEAR THEREAFTER.

Sec. d. WHEN A VACANCY OCCURS IN THE OFFICE OF AN ELECTED JUDGE OF ANY COURT OF RECORD, IT SHALL BE FILLED AT A GENERAL OR SPECIAL ELECTION ACCORDING TO LAW. THE SUPREME COURT IS EMPOWERED TO AUTHORIZE PERSONS WHO HAVE SERVED AS JUDGES AND HAVE VOLUNTARILY RETIRED, TO PERFORM JUDICIAL DUTIES FOR THE LIMITED PERIOD OF TIME FROM THE OCCURRENCE OF THE VACANCY UNTIL THE SUCCESSOR IS ELECTED AND QUALIFIED.

Sec. e. 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. f. ANY JUSTICE OR JUDGE SERVING AT THE TIME THIS CONSTITUTION BECOMES EFFECTIVE MAY SERVE THE REMAINDER OF THE TERM AND BE ELIGIBLE FOR REELECTION TO HIS PRESENT OFFICE REGARDLESS OF OTHER PROVISIONS IN THIS CONSTITUTION PERTAINING TO THE QUALIFICATIONS FOR THE OFFICE.

Sec. g. SALARIES OF JUSTICES OF THE SUPREME COURT, OF THE JUDGES OF THE COURT OF APPEALS, OF THE CIRCUIT JUDGES WITHIN THE 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 COURTS SHALL RECEIVE A SALARY PAYABLE MONTHLY. IN ADDITION TO THE SALARY PAID FROM THE STATE TREASURY, EACH CIRCUIT JUDGE MAY RECEIVE FROM ANY COUNTY IN WHICH HE REGULARLY HOLDS COURT SUCH ADDITIONAL SALARY AS MAY BE DETERMINED FROM TIME TO TIME BY THE BOARD OF SUPERVISORS OF THE COUNTY. IN ANY COUNTY WHERE SUCH ADDITIONAL SALARY IS GRANTED, IT SHALL BE PAID AT THE SAME RATE TO ALL CIRCUIT JUDGES REGULARLY HOLDING COURT THEREIN.

Sec. h. FOR REASONABLE CAUSE, WHICH SHALL NOT BE SUFFICIENT GROUND FOR IMPEACHMENT, THE GOVERNOR SHALL REMOVE ANY JUDGE ON A CONCURRENT RESOLUTION OF 2/3 OF THE MEMBERS ELECTED TO EACH HOUSE OF THE LEGISLATURE; AND THE CAUSE FOR WHICH SUCH REMOVAL IS REQUIRED SHALL BE STATED AT LENGTH IN SUCH RESOLUTION.

Sec. i. THE OFFICE OF CIRCUIT COURT COMMISSIONER AND JUSTICE OF THE PEACE SHALL CONTINUE TO HAVE, FOR A PERIOD OF NOT TO EXCEED 5 YEARS FROM THE DATE THIS CONSTITUTION BECOMES EFFECTIVE, ALL THEIR RESPECTIVE POWERS AND JURISDICTION UNTIL THE TIME WITHIN THIS PERIOD THAT THEY ARE ABOLISHED OR THEIR JURISDICTION AND POWERS ARE TRANSFERRED TO, OR INVESTED IN, OTHER COURTS THAT SHALL BE ESTABLISHED IN ACCORDANCE WITH THIS CONSTITUTION.

SPECIAL STATUTORY COURTS IN EXISTENCE AS OF THE TIME THIS CONSTITUTION BECOMES EFFECTIVE SHALL RETAIN THEIR POWERS AND JURISDICTION, EXCEPT AS PROVIDED BY LAW, UNTIL AND UNLESS THEY ARE ABOLISHED BY LAW.

Sec. j. THE PROVISIONS OF THIS CONSTITUTION REQUIRING THE ESTABLISHMENT OF STAGGERED TERMS OF OFFICES IN EXISTENCE, SHALL BE IMPLEMENTED AT THE NEXT ELECTION FOR SUCH OFFICES BY LEGISLATION PROVIDING FOR ELECTIONS FOR TERMS OF VARYING LENGTH, NONE OF WHICH SHALL BE SHORTER THAN THE BASIC TERM PROVIDED HEREIN FOR THE OFFICE.

Sec. k. EACH BRANCH OF THE LEGISLATURE AS WELL AS THE GOVERNOR SHALL HAVE THE AUTHORITY TO REQUEST THE OPINION OF THE SUPREME COURT UPON IMPORTANT QUESTIONS OF LAW AND UPON SOLEMN OCCASIONS.

Mr. Danhof, chairman of the committee on judicial branch, submits the following reasons in support of Committee Proposal 96:

Sec. a. Most of the content of this section is found in section 17 of article VII of the Constitution of 1908. The new court of appeals has been included as a court of record and the legislature is permitted to determine which of the lower courts will be so designated.

Two substantial additions have been made. One requires that all judges be lawyers. An exception is made in section f for those nonlawyers now serving as judges. In the case of justices of the peace, this exception cannot extend beyond 5 years. (See section i hereunder.)

The committee felt that a minimum requirement for judicial office should be a license to practice law. This doctrine has been recognized as to the supreme court and the circuit court through an amendment adopted by the people in 1955. We would apply it to all courts.

Abolition of the fee system would also be accomplished. The committee could find no support for paying a judge on the basis of the amount of litigation before him. Even the justices themselves would not wholeheartedly endorse what appears to the committee to be an indefensible method of payment.

Sec. b. The committee has in essence adopted the provisions of section 19 of article VII of the Constitution of 1908. Due, however, to the elimination of the justices of the peace from the proposed new article any reference to this office has been eliminated. In addition, the word "territory" has been substituted for the word "jurisdiction," inasmuch as the section refers to the physical moving of the judge from the territory from which he was elected.

Sec. c. Since 1850, circuit judges have been prohibited from holding other than a judicial office for their term and an additional year. We felt the principle of divorcing the judiciary from the political arena was valid. There seemed to be no reason to place the limitation on circuit judges alone. On the other hand, the committee felt that such a restriction should be tied to service on the bench, rather than the term to which he was elected.

Sec. d. This provision is a substitution for section 20 of article VII of the Constitution of 1908 and provides that vacancies in the office of an elected judge of any court

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

of record shall be filled by general or special election. This is a significant change and removes from the governor the power to appoint judges. The provision is included in order to maintain a philosophical consistency in the idea that this state should have an elected judiciary. The present system where the governor in case of a vacancy makes an appointment and there is then bestowed upon the appointee the incumbency designation, has had an overwhelming tendency in the past to insure the election of the appointee and thereby creating in effect an appointive judiciary. The proposal embodies the idea that the supreme court may fill the vacancy temporarily by utilizing the services of judges who have retired. This pool of judicial manpower will continue to grow and can be readily utilized as needed. It is recognized that perhaps certain legislation will be needed to amend the retirement program.

The committee on executive branch is unable to concur in this proposal.

Sec. e. This provision is the last paragraph of section 3 of article VII of the Constitution of 1908, with one significant change. There has been inserted in front of "incumbent" the word "elected". Hence it now provides that only judges or justices who have been elected will be eligible for the incumbency designation. This method is utilized to provide tenure for those judges who have previously qualified, gives stability to the judiciary of this state and is extremely vital in order to secure proper court administration when you have an elected judiciary. The majority of the committee were of the opinion that the incumbency designation is something which should be earned by previous election.

Sec. f. This is a "grandfather" clause to permit present nonlawyer judges to serve the remainder of their term and be eligible for reelection. As pointed out in the earlier comments, after a maximum of 5 years, this exception would no longer protect justices of the peace.

Sec. g. The provisions of this section are designed to assure uniform salaries for all judges within a certain district. It likewise removes the restriction of section 3 of article XVI which, as it now stands, prohibits the increase of salary of any supreme court justice during his term of office. We now have justices whose salaries vary as much as \$7,000.00 per year. The committee believes that this discrimination should be abolished. However, due to the requirement of staggered terms for circuit judges and probate judges it became evident that some other method should be devised if a salary reduction ever became necessary. Accordingly, the proposition was adopted that a salary reduction could be obtained for the judiciary only if general salary reduction were made in each of the other branches of the government. This would eliminate the danger of the judiciary being singled out for salary reduction.

Sec. h. This section is identical with the present provisions of article IX, section 6. The matter is simply transferred to the judicial article.

Sec. i. Having determined that the offices of circuit court commissioner and justice of the peace should be abolished, the committee recognized the need to provide for a period of time for the legislature to accomplish an orderly transfer of the powers and duties of these offices to other judicial and nonjudicial offices where indicated. Five years did not seem to be an unreasonably long period of time in that the legislature may desire to reevaluate the entire system of courts of limited jurisdiction in the development of a modern lower court structure, better adapted to the needs of the people and the ends of justice.

Under the 1908 constitution, several statutory courts have been created. Among these are the recorder's court and common pleas court of Detroit, superior court of Grand Rapids, municipal courts throughout the state and the court of claims. These will continue in existence, unless action is taken by the legislature to abolish them or trans-

fer their duties elsewhere. No new power is vested in the legislature in this regard.

Sec. j. This provision is needed to allow the legislature to fulfill the constitutional requirement of staggered terms for both circuit and probate judges.

Sec. k. This is a new section and is recommended for the purpose of empowering the supreme court to furnish advisory opinions to the governor and each house of the legislature on important questions of law and solemn occasions. An example of this would be the 4 cent sales tax which was passed and, in a short time thereafter, was declared unconstitutional. By this provision it is felt that more effective governmental operation is made possible. This is a nonadversary proceeding. Similar language appears in the Constitution of the State of Massachusetts. The matter of advisory opinion was recommended to the committee on judicial branch by Mr. Justice Black. We feel the court will provide for notice and hearing in proper cases.

*Following is minority report A to Committee Proposal 96 as offered and the reasons submitted in support thereof:*

Messrs. Ford, Garvin, Bledsoe, Miss McGowan, Messrs. Ostrow, Krolkowski and Barthwell, a minority of the committee on judicial branch, submit the following minority report A to Committee Proposal 96:

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

Strike all of Section d and reinsert in lieu thereof the language of article VII, section 20 of the 1908 constitution, which language reads as follows:

When a vacancy occurs in the office of judge of any court of record, it shall be filled by appointment of the governor, and the person appointed shall hold the office until a successor is elected and qualified. When elected, such successor shall hold the office the residue of the unexpired term.

Messrs. Ford, Garvin, Bledsoe, Miss McGowan, Messrs. Ostrow, Krolkowski and Barthwell, a minority of the committee on judicial branch, submit the following reasons in support of the foregoing minority report A, which accompanied Committee Proposal 96:

The proponents of this minority report believe that the majority's recommended prohibition against the filling of vacancies by gubernatorial appointment would create a unique problem that could conceivably result in prolonged vacancies on the bench.

The majority proposes that pending the occurrence of an election to fill a judicial vacancy, the vacancy could be temporarily filled by retired former circuit judges. An examination of the number and location throughout the state of retired judges available for this service casts strong doubt on the practical value of this method to meet the problem.

It is apparent from many years of experience with the present system that judicial vacancies have been filled by the governors of this state on a careful and considerate basis. The vast majority of its judges, who have been appointed to fill a vacancy, have been elected and reelected many times over by the voters, demonstrating their confidence in the caliber of person the present system produces.

*Following is minority report B to Committee Proposal 96 as offered and the reasons submitted in support thereof:*

Messrs. Ford, Ostrow and Garvin, a minority of the committee on judicial branch, submit the following minority report B to Committee Proposal 96:

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

Sec. i. On page 3, of Committee Proposal 96:

1. Strike out all of lines 11 through 17, inclusive.

2. Amend line 18, by striking out "SPECIAL STATUTORY" and inserting "ALL".

3. Amend line 20, after "UNLESS" by striking out "THEY" and inserting "SUCH POWERS".

4. Amend line 20, after "ARE" by inserting "MODIFIED OR", so that section i will read as follows:

Sec. i. ALL COURTS IN EXISTENCE AS OF THE TIME THIS CONSTITUTION BECOMES EFFECTIVE SHALL RETAIN THEIR POWERS AND JURISDICTION, EXCEPT AS PROVIDED BY LAW, UNTIL AND UNLESS SUCH POWERS ARE MODIFIED OR ABOLISHED BY LAW.

Messrs. Ford, Ostrow and Garvin, a minority of the committee on judicial branch, submit the following reasons in support of the foregoing minority report B, which accompanied Committee Proposal 96:

The purpose of the proposed changes of the majority report are to remove the language provided for the absolute abolition of the circuit court commissioner and justice of the peace on or before 5 years from the date of the adoption of the constitution.

It is the belief of the minority that removing the justice of the peace from the constitution provides sufficient flexibility for the legislature to abolish, modify or otherwise replace both of these courts. If this should at any time in the future be necessary and desirable on a statewide basis, it is thought that by leaving this matter completely to the legislature, it will be free to add to the present court system a system of local courts to replace the justice of the peace in parts of the state where this may be desirable. The language of the majority report would, however, abolish these courts throughout the state and does not admit of the possibility that these courts perform necessary functions in many parts of the state.

The circuit court commissioner's court in Wayne county, for example, handles a large volume of work which would of necessity be transferred to other courts already operating with overburdened dockets.

The amendment to the second paragraph of this section would make it clear that all judicial powers being exercised at the time of the adoption of this constitution would continue without the necessity of immediate legislation to replace constitutional powers being abolished or left out of this constitution.

CHAIRMAN VAN DUSEN: For an explanation of section a of Committee Proposal 96, the Chair will recognize the chairman of the committee on judicial branch, Mr. Danhof.

MR. DANHOF: Mr. Chairman and members of the committee, we now turn to the committee proposal which deals with miscellaneous provisions, which will refer to all or certain specific courts and cover certain other particular items which are applicable to all of the proposals that we have considered thus far. In order to explain the position of the committee in this regard, I should like to call upon a gentleman who served with our committee and who was long suffering in the fact that he was the only nonlawyer on the committee. I would at this time call upon the delegate from the city of Detroit, Mr. Barthwell.

CHAIRMAN VAN DUSEN: The Chair will advise the committee that at a meeting of the rules committee this noon it was suggested that Mr. Barthwell be awarded the honorary degree of L.S.L., long suffering layman. (laughter) Mr. Barthwell.

MR. BARTHWELL: Mr. Chairman, fellow delegates, I don't know if this layman has suffered as much as the convention has, because I found out that 20 lawyers can't talk as much as 57 lawyers and some laymen. (laughter) I would like to say, though, that this duty has been an enjoyable one, and I think it was nice that I was here, because when we are going to try to fix up the lay people, they are going to let a layman do the job.

[The supporting reasons for section a were read by Mr. Barthwell. For text, see above, page 1478.]

I would like to state again that the changes in this section are 2: one, all judges of all courts must be lawyers; and 2, no judges shall be paid on a fee system. I would also like to state that, personally, I, as a lay person—although it seems that I am waiving all of my opportunities to cash in on the services that I have put in on this committee—have found out that a nonlawyer could be a judge, although he couldn't practice law. When I agreed with this, though, I was following the established concept that specialization produces the best results. And I, as a lay person, when I go before a court, not only would like to feel that the judge is a lawyer, but would kind of hope that he was an experienced lawyer.

I would like to say that I urge, on behalf of the committee, that this section be adopted.

CHAIRMAN VAN DUSEN: Thank you, Mr. Barthwell. Mr. Danhof, do you have any further explanation?

MR. DANHOF: Mr. Chairman, I think it might be in order, if I can, to request that we consider this particular section sentence by sentence. In this way we can proceed, and if there are amendments, as I note there are, we might be able to take them up by sentence, in the order that they come up in the proposal.

CHAIRMAN VAN DUSEN: Without objection, we will proceed to consider section a of Committee Proposal 96, sentence by sentence. Are there any amendments to the first sentence?

SECRETARY CHASE: Messrs. Radka, Pugsley and Rajkovich offer the following amendment:

1. Amend page 1, line 8, after "designated" by inserting "as such"; so that the language will read:

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 have a common seal.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Radka and others to the first sentence of section a. Mr. Radka.

MR. RADKA: I have nothing to offer in the way of explanation. I think that probably the amendment is clear, although I believe the words must be read in conjunction with the amendment that is offered as far as the second sentence is concerned, which involves line 10. I will defer until you pass the first sentence.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Radka and others to the first sentence of section a. Mr. Danhof.

MR. DANHOF: I might state for the committee that I think this is a matter that is clarifying rather than changing any intent. It was the particular intent of the judiciary committee that the courts named herein—that is, the supreme court, the court of appeals, the circuit court and the probate court—should by constitution become courts of record. Now, this is a very technical matter, and it has to do with the acceptability of the orders and the records of the court. We further intended that any other courts which might be created by the legislature, as provided in Committee Proposal 90, could be, if the legislature deemed it desirable, designated as courts of record. It is my understanding that the amendment here is merely clarifying, and I see no real objection to it at this time.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Radka and others to the first sentence of section a. Mr. Higgs.

MR. HIGGS: Mr. Chairman, I have one question here. We have had, on style and drafting, certain problems, one of which is the word "such." Normally, the word "such" refers to an antecedent noun. My understanding of the intention, so that we can have that clear before us in style and drafting, is that "such" really refers to "courts of record," is that correct?

MR. RADKA: That is correct.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Mr. Radka and others to insert the words "as such" after the word "designated" in line 8, in the first sen-



situation, however, which is covered by this section h. Maybe you have several situations, but the outstanding situation which you may encounter and for which a remedy is required is a situation where a judge becomes mentally or physically incompetent during his term of office. That is particularly aggravated, because if he is mentally incompetent, he couldn't resign if he wanted to. He wouldn't have the capacity to resign and the public might be stuck with a judge for 6 or 8 years who couldn't, because of mental or physical disabilities, attend to any of the duties of his office. Section h would permit removal, by 2/3 vote of the members elected to each house, of a judge who was in such condition, or removal for some other cause which was not sufficient for impeachment. Over half of the states of the United States have similar provisions in their constitution. We have had it here, as I say, for 130 years in our constitutions and we feel it should be continued.

CHAIRMAN VANDUSEN: Are there any amendments to section h of Committee Proposal 96?

SECRETARY CHASE: None.

CHAIRMAN VANDUSEN: Mr. Martin.

MR. MARTIN: Mr. Chairman, we had an amendment at one point to this section which would have given the power of removal to the supreme court. However, when Mr. McAllister's amendment to section c of Committee Proposal 91 came up, at that time it included a prohibition not only against removal by the supreme court, but against suspension by the supreme court, and the committee struck out the prohibition against suspension, thereby making it clear that in the superintending power of the supreme court and its disciplinary power it had the power to suspend the judge. In view of this fact, I see no necessity for offering an amendment to section h since it has been made clear that the supreme court does have the right to maintain discipline in the judicial system through its power of suspension.

CHAIRMAN VANDUSEN: Mr. Barthwell.

MR. BARTHWELL: Mr. Chairman, I just wanted to ask a question, I suppose of Judge Leibrand. I would just like to know on line 9 what they mean when they say "at length in such resolution".

CHAIRMAN VANDUSEN: Judge Leibrand.

MR. LEIBRAND: This is a rather common phrase. I would say that it means that the complete nature of the charges or reasons should be set forth.

MR. BARTHWELL: Thank you.

MR. LEIBRAND: In other words, not simply the word "senile" or the words "awful sick" or anything of that sort. (laughter) The complete nature of the situation should be set forth.

MR. BARTHWELL: Thank you.

CHAIRMAN VANDUSEN: There being nothing further with respect to section h, it will pass.

Section h is passed and the secretary will read section i.

SECRETARY CHASE: Section i:

[Section i was read by the secretary. For text, see above, page 1479.]

CHAIRMAN VANDUSEN: For an explanation of section i, the Chair will recognize the chairman of the committee, Mr. Danhof.

MR. DANHOF: Mr. Chairman, for the explanation of the majority of the committee regarding this particular section, I yield to the delegate from Battle Creek, Mr. Everett.

CHAIRMAN VANDUSEN: Mr. Everett.

MR. EVERETT: Mr. Chairman, fellow delegates, this is a new section. It actually incorporates 2 separate ideas in the 2 separate paragraphs. The first paragraph provides for a period of 5 years in which the legislature can adapt to the situation of creating the new courts of limited jurisdiction. We recognize that there is a need for a transition period. To make this effective on the effective date of this constitution would not permit a sufficient time for an orderly transfer of

duties and functions from one court to another. Within our own committee we discussed at some length the idea of creating a county court system. We recognized that it was a difficult matter and that it was not going to be done overnight. We also recognized the question of whether municipal courts should continue or be incorporated into a new system was a matter which was going to require a good deal of discussion and debate within the legislature, so we felt that 5 years was not too long a period to permit this development of a new system of courts of limited jurisdiction.

The second paragraph. As has been pointed out in connection with other matters, there are a number of special statutory courts in existence today. All the municipal courts have been created by statute. The recorder's court and common pleas court of Detroit, the superior court of Grand Rapids, the court of claims—all of these courts were set up by the legislature and of course can be changed by the legislature as time goes along. Recognizing, again, that in some of these courts at least there was a conflict between Committee Proposal 90, which said that the legislature may create courts of limited jurisdiction, and the action already taken by the legislature preceding this constitution, we felt that we should specifically point out that we were not interfering with the statutory courts as they exist. The legislature created them, the legislature has the power to abolish them, and we are specifically indicating that they shall continue until such time as the legislature may act.

CHAIRMAN VANDUSEN: Are there any amendments to section i?

SECRETARY CHASE: Pursuant to the minority report of Messrs. Ford, Ostrow and Garvin,

Mr. Ford offers the following amendment:

1. Amend page 3 by striking out all of lines 11 through 17; and in line 18, by striking out "special statutory" and inserting "Sec. i. All"; and in line 20, after "unless" by striking out "they" and inserting "such powers"; and after "are" by inserting "modified or"; so that section i will read, beginning in line 18:

Sec. i. All statutory courts in existence as of the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until and unless such powers are modified or abolished by law.

CHAIRMAN VANDUSEN: The question is on the amendment offered by Messrs. Ford, Ostrow and Garvin pursuant to their minority report. The Chair will recognize Mr. Ford.

MR. FORD: The explanation of the minority report is on page 582 of the journal. Very briefly, the effect of our amendment is to take out the death penalty and leave completely in the hands of the legislature the ultimate disposition of the justice of the peace and the circuit court commissioner. It may be that in some parts of the state this court is obsolete and of no service. It may well be also—and I think we should be broad minded enough to admit as a possibility—there may be part of the state where this court serves well and may continue to serve well in the future where the people might prefer to keep it.

I can see no justification for continuing the justice of the peace as a constitutional office, because it hampers us; it works to the disadvantage of parts of the state where some other system might work better. The committee started out to provide ostensibly for flexibility, but actually they approached this thing from the negative point of view of how can we abolish the justice of the peace, and came to this language. They didn't want to abolish him forthwith so they said, "Well, let's do it 5 years from now."

Here is what they have actually done. If we agree that it is not right for the justice court to be frozen into the constitution and for its jurisdiction to be frozen in—and we have already agreed to the exclusion reports that will take the jurisdictional provisions with respect to justice courts out of the constitution—then why wait 5 years? What you are saying if you adopt the committee report is that we are going to leave it to the legislature, but we are not going to leave it to the

legislature to provide an alternative for this court until 5 years from now, because the first sentence says, "The office of circuit court commissioner and justice of the peace shall continue to have, for a period of not to exceed 5 years from the date this constitution becomes effective. . . ." The only way that the legislature can make a change in this within this period without affecting the entire state is if you take them out of the constitution entirely and leave to the legislature the question of whether there should be a justice court. And then by our amendment we add language that indicates that the present powers—whether they are statutory or by constitution—that these courts have will continue until the legislature does something to extinguish them.

This has, in addition to the function of continuing the court, another function, which is that if you start to look at all of the statutes that refer to the justice of the peace and his duties, you will find that it is a very exhaustive problem to try to find every one of the statutes that mentions him and make the changes necessary to replace the powers in some other court, and it is conceivable that a number of mistakes might occur. So what we are simply doing here is providing for some continuity so that we don't have a vacuum of authority and so that jurisdictional changes will actually only occur by deliberate action of the legislature rather than by the failure of the legislature to act.

I submit there is nothing magic in the 5 year term for this provision, and we have had enough experience with deadlines around here to know that when you say to the legislature that they should do this in 5 years, what you are inviting them to do is argue about this until 4 years 11 months and 20 days from the constitution's adoption and then quickly throw together some kind of a patchwork system. I think that we would do better if we allowed the legislature to forthwith provide, for example in Wayne county, that townships could have a municipal court instead of a justice court with a lawyer as a judge and with a salary, et cetera, et cetera, if the people wanted it there. We can't now have this sort of local option because of the constitutional status of the justice court. By the same token, I think we should let the people in northern Michigan or rural Michigan continue the present system just as it is if that is what they want, with the exception of the changes that we have made to kind of clean it up a little bit.

For this reason we find ourselves on the side of the angels pleading for that all wonderful thing called flexibility, by saying, "Today we ought to trust the legislature," and the Democratic minority on this particular issue is ready to go sled's length and trust them all the way. We will see whether the majority wants to trust the legislature today or not.

CHAIRMAN VANDUSEN: The question is on the amendment offered by Messrs. Ford, Ostrow and Garvin. Mr. Everett, did you seek recognition on this amendment?

MR. EVERETT: Mr. Chairman, fellow delegates, apparently Mr. Ford and I have different ideas of what trust involves. To me, to tell them that they have 5 years in which to develop this plan and then for him to say they will do it in 10 days does not exhibit very strong trust in the legislature. I don't think that it will take any 5 years for them to act, but I recognize that it will take time. We are not telling them what they are to do in Wayne county as to townships or municipalities or any other part of the state.

He suggests that the justice of the peace has many duties beyond judicial duties, and this is certainly true and we are not interested in taking those from the justice of the peace. For that matter, if the legislature wants to leave those duties with the justice of the peace or the township supervisor or any other area, they have a perfect right to do it. We are really not talking about the nonjudicial functions of this office, although we clearly stated that all of their powers would remain until they acted. He has suggested that there would be a vacuum of authority, and it is for this very reason that we have put in the 5 years period. What he is really saying is not that there will be a vacuum of authority, not that the nonjudicial functions cannot be changed, but that the system will remain untouched.

Yesterday, without debate, without amendment, without a word being offered in its defense, we said that the fee system of paying any judges would die now, with this constitution. We in the committee recognize that even this would have to live for some period of time, and that is why we considered 5 years. But Mr. Ford is now saying that what no man would defend yesterday, today he would seek to do without telling us that he is doing it. There is no necessity for us writing in this provision at all if we don't intend to live up to what we said yesterday, that the fee system will die. If you wish to perpetuate it, then let's say so and fight it out on that line.

The amendment which they offer has no purpose for existence except to modify what we have already done. I submit that the committee proposal was fair. The vote was taken after deliberation. It was taken after examining other possible areas in which to move. It is a compromise between the extreme of saying "Tomorrow you must have something new" and saying "You need never have something new." I think it is a fair and an adequate compromise. I would wholeheartedly support the committee position and ask that you defeat the amendment.

CHAIRMAN VANDUSEN: Mr. Ford.

MR. FORD: I would like to ask Mr. Everett a question through the Chair. Mr. Everett, what language in my amendment would vitiate the section we have already adopted abolishing the fee system?

CHAIRMAN VANDUSEN: Mr. Everett.

MR. EVERETT: Your language would say that all courts in existence at the time this constitution becomes effective shall retain their powers and jurisdictions and so forth.

MR. FORD: Is the fee system a power or jurisdictional matter with the court?

MR. EVERETT: It is a method of paying the courts in existence.

MR. FORD: Does it have anything to do with the court's power or jurisdiction?

MR. EVERETT: Of course not.

MR. FORD: Then why were you trying to create the impression with these people that we are trying to sneak the fee system in the back door?

MR. EVERETT: Because, Mr. Ford, I had that honest impression. If you are saying to me that this will not do that, fine, let's say so on the record.

MR. FORD: Well, Mr. Everett, you and I have discussed this on numerous occasions, and you know full well what the import of this amendment is.

MR. EVERETT: Mr. Chairman, if I may address this question to Mr. Ford, if it is not your intention—and I hope that it is not, and if I have read something wrong in it, I apologize to you—to perpetuate the fee system, then a simple statement to that effect on this record would certainly set my mind at ease.

CHAIRMAN VANDUSEN: Mr. Ford.

MR. FORD: It is my understanding that we have already abolished the fee system. It is also my understanding that the fee system could never in any way be construed as either a power of a justice court or a jurisdictional matter with the justice court. The fee system is simply the method whereby the county reimburses the justice for the services he performs as a justice of the peace. In the future I assume that he is going to be reimbursed in the form of a salary that cannot be based on the fees collected by his court.

CHAIRMAN VANDUSEN: Mr. Everett.

MR. EVERETT: Mr. Chairman, if I still maintain the floor, inasmuch as Mr. Ford will not tell us this is the purport of his amendment, unless some of the other sponsors of the amendment are willing to say on the record that this will not be the effect of the amendment, then I shall continue to oppose it and ask that we support the committee proposal.

CHAIRMAN VANDUSEN: Mr. Ford.

MR. FORD: I don't know how clear I can say it. We have abolished the fee system, and this does not in any way affect the fee system. I don't want it in here.



MR. EVERETT: Thank you, Mr. Ford. You have now said it clearly, which is all I was asking you to do before. (laughter)

CHAIRMAN VANDUSEN: The question is on the amendment offered by Messrs. Ford, Ostrow and Garvin. Mr. Danhof.

MR. DANHOF: I think, apart from the fee system, there is something else that enters into this thing. If not directly, then it does indirectly. The committee proposal provides that the 2 offices, which are now in, of the courts of limited jurisdiction shall cease to exist with their powers and jurisdictions within 5 years after the adoption of this constitution. This will eliminate from the scene, assuming the adoption of the constitution, what were previously constitutionally recognized offices. Now, the committee, in view of what transpired before relative to section a, where we inserted "courts of record," is well aware that what might transpire is the adoption by the legislature of a statute simply recreating statutorily what previously was done constitutionally. But that is exactly what this particular section wishes to accomplish. If the courts are to continue and if the legislature is to set the qualifications, then the majority of the committee is of the opinion that they should become statutory courts, no more, no less, to be changed upon the will of the legislature. The second section seeks to specifically point out that the special statutory courts such as recorder's court shall not in any way be affected.

Basically the main difference is that what the minority report amendment intends to do is to lump together the statutory courts—that is, the municipal courts and the recorder's court—with previously constitutional courts, so that what you will have are courts which derive their power from the 1908 constitution are indirectly being continued in the new constitution. I am afraid what the majority of the committee is concerned with is that you are now indirectly continuing a constitutionally recognized court of limited jurisdiction, and that the legislature will not take the necessary action which we feel they should take even if they begin to do nothing more than establish by statute what was previously constitutional. We hope, of course, they will make a considered study and that they will begin to classify, and that by the time 5 years goes on, they will have a very definite plan which will be of benefit to all areas of the state considering their location, considering their size, considering their economic condition. This is what we visualize and what we are trying to have accomplished, that something is done in 5 years, if nothing more than perhaps to combine areas, eliminate justices, give them another name if they want to or give them the same name. We feel that there should be action; that 5 years is a sufficient time to make a study; and that we should not by indirection allow all courts in existence to continue with a blanket such as that.

For the 5 year period the majority and the minority are in accord. The full question becomes whether or not you believe some action should be taken within 5 years. The majority believes that there should be. I would hope that the majority of this committee would agree, and for that reason I oppose the minority report amendment.

CHAIRMAN VANDUSEN: Judge Pugsley.

MR. PUGSLEY: Mr. Chairman and fellow delegates, in anticipation of the adoption of the committee report, which purports to give a 5 year period of time within which a statutory court may be created to take over all of the functions of the present justice court and also the circuit court commissioners, there has been prepared and will be submitted to this convention as a supplement to the report of the committee a provision for the creation of a statutory court to take effect at the end of the 5 year period. It is not anticipated in the preparation of this proposal that the statutory courts which are in existence will be in any way disturbed. The proposal which you will subsequently receive will give an opportunity and place a duty with the legislature to fill the vacuum which otherwise might appear, on the face of it, to exist.

I think it is only fair that in considering the amendment which has been proposed, that you have the knowledge of what

is within the anticipation of many of the delegates here to follow the article which is before you, so I therefore at this time rise to ask the defeat of the amendment, with the idea in mind that you later have an opportunity to supply, through the amendment which will later be proposed, a proposal which I believe will cover any vacuum that may have been created through the committee proposal.

CHAIRMAN VANDUSEN: Mr. Heideman.

MR. HEIDEMAN: Mr. Chairman, fellow delegates, I meant to speak yesterday in connection with the justice of the peace. I refrained from doing so because I wanted to be as open minded and as flexible in my thinking as possible with a view particularly to the problems of northern Michigan. I might call this "confessions of a former justice of the peace" and also before that, for some 8 or 9 years, a professor of American government and state government at Michigan Tech. During this 10 years I had a good deal of firsthand experience with justices of the peace and the system as it operates; as a matter of fact, since then also, since going back into the practice of law in '57 in defending people.

The system, in my judgment, has reached a point where we not only should, but I think must, do something about it. Of course we have so far in that we are taking the justices of the peace as of now out of the constitution. I would like to say that perhaps some naivete or, should I say, simple mindedness is a good thing so that one can, with a straight face, aim one's sights upwards and not down in order to write a better constitution but to go forward to meet and cope with the problems of the future. And I would like to make some observations concerning the system which I think are applicable to it as a whole whether in the upper peninsula or in the northern part of the lower peninsula or downstate, the rest of the lower peninsula.

I think, of course ideally, that we should, if possible, have some such thing as a county court paid, if necessary, by the state and manned by persons trained in the law. But there again I believe in flexibility. I don't like to foist something on someone else that they feel they shouldn't have as I don't like to have things foisted on me that I, in deep conviction, think should not be foisted on me. But there are certain basic things I think, that, reach the root of the question of justice here in this lowest echelon of judgeships as well as in the higher graduations. We all think, I think ideally, of justice in terms of the famous goddess of justice holding the scales even for everyone, weighed down on either side only by the evidence or—the legal term—the weight of the evidence. And if it is beyond a reasonable doubt, we find a person guilty. If it is by a preponderance of the evidence, which is somewhat less, a plaintiff wins his case. Another thing we think in terms of is the famous expression, "to render justice without fear or favor." That is, I think, what we all would like to do. At least I hope so.

Now, as for specific comments, the justice of the peace system as it is today in effect might be said to be a loaded court, loaded in the sense of justice, not in some other sense or lack of it, rather, and it is loaded in favor or weighted in favor of the plaintiff—I think by virtue of the system of itself, this is practically a truism—in a civil case, and again of course in favor of the police in a criminal case. In the civil case, by virtue of the fact that there are many justices of the peace and you can select your forum, the bill collector or someone else—and I am not against collecting legitimate bills, the manner in which it is done and so on—if he doesn't like your operation can just make an end run and go to another J.P. court and leave you high and dry. In the case of the police—and in this respect there is an impartial attitude on their part whether by the state police or the local police or the sheriff's department—I am not speaking in any sense personally. Again I am trying to speak as the system operates. I am not being personal in any way as to the justice of the peace because many of them I know personally who are friends of mine. But if the police in criminal cases don't like the way you operate, they just go to another justice of the peace. I was even given messages to the effect that I should try to be

more reasonable if I expected to stay in business in a practical way. So that it is, in effect, a loaded court, and this is not just the case, as someone has said, of a bad apple. This is applicable to the system as a whole. So there is the opportunity for court jumping, end runs around the court. I don't think that is a very good basis upon which to operate justice.

Furthermore—and this dates back to the days not only of theoretical but practical experience over 10 years—on the question of appeals, the students of Michigan Tech used to come to me. They knew I was a member of the bar, and it seems that these police have the reputation of liking to pick on college boys, but whether that is true or not, many of them did come to me to see what could be done. Well, there was always the question of an appeal, but because it was a small matter they didn't feel that the expense was justified so that for all practical purposes, the appeal was really out the window to start with. Finally, the fee system itself: it is difficult to understand how anyone—

**CHAIRMAN VAN DUSEN:** Mr. Heideman, the Chair thinks the previous discourse has indicated that the fee system is not a part of the current discussion, and I will ask you to confine yourself as closely as possible to the point.

**MR. HEIDEMAN:** The fee system was raised quite pointedly, and that is why I wanted to say a word as to it if I may.

**CHAIRMAN VAN DUSEN:** The Chair thinks, Mr. Heideman, the fee system is not before us at this point, and I will ask you to confine yourself to discussion of the amendment offered by Messrs. Ford, Ostrow and Garvin.

**MR. HEIDEMAN:** Well then, if I have the assurance that there is no intent here on the part of either the amendment or in the other position to restore the fee system, I will be satisfied.

**CHAIRMAN VAN DUSEN:** Mr. Ford, do you desire to repeat your assurance? Mr. Heideman has asked the question as to whether there is any intent here to restore the fee system.

**MR. FORD:** Are you talking about the upper peninsula fee system or the one the rest of us use? (laughter) I noticed in the newspaper the other day apparently their fees are about twice what we charge in Wayne county. But no, it is my intention that the fee system should die and fade away with the 15 mill limitation. (laughter)

**MR. HEIDEMAN:** Delegate Ford and fellow delegates, that is not really germane, because whether it is an upper peninsula system or a lower peninsula system or any other system, it is the fee system that I am talking about, and it does make a big difference in the doing of justice whether it is high or low or little or big.

**MR. FORD:** Well, I take exception because you were quoted in the newspaper, perhaps improperly, but most certainly quoting the wrong fee for the kind of case that was handled.

**MR. HEIDEMAN:** Your comment, nevertheless, doesn't change the fact of the operation of the fee system. Well, I wanted to say a word as to this, but if that question comes up again, then I would like to reserve my remarks until that time.

**CHAIRMAN VAN DUSEN:** If the fee system comes before us, Mr. Heideman, you will be then in order.

**MR. HEIDEMAN:** Thank you.

**CHAIRMAN VAN DUSEN:** The question is on the amendment offered by Messrs. Ford, Ostrow and Garvin. Does any delegate desire to have it read again? Mr. Radka.

**MR. RADKA:** I think it would be proper to read the actual amendment, which is on the secretary's desk, to amplify the words that Judge Pugsley delivered to us just a few minutes ago. The proposed amendment is a new section. The substance is, "Within 5 years from the date this constitution becomes—"

**CHAIRMAN VAN DUSEN:** Mr. Radka, the Chair takes it that the amendment that you are now reading is not the amendment currently offered by Messrs. Ford, Ostrow and Garvin, but is the one to which Judge Pugsley earlier referred, which will be offered at a later time?

**MR. RADKA:** This is correct, Mr. Chairman, but I am reading the substance of it because we oppose—

**CHAIRMAN VAN DUSEN:** You may proceed, Mr. Radka. The Chair simply wanted to make it clear what was being read.

**MR. RADKA:** We oppose the amendment and ask that you vote for the committee report. And those who are supporting the committee report are doing so with full sympathy of what Mr. Ford is trying to accomplish, and the reason that we would be opposing his amendment is because we are going to offer this as another section. I think it is only proper that the other delegates and Mr. Ford know what is on the secretary's desk:

Within 5 years from the date this constitution becomes effective, the legislature shall establish statutory courts of limited jurisdiction inferior to the circuit court with a definition of their powers and jurisdiction, the location and number of such courts, the qualifications of the judges who shall preside therein, the method of their election and tenure of office and the amount of their salary and by what governmental units the same shall be paid.

If you will recall, when I offered the amendment to section a where we added "of record" to the section, which required that all judges and justices be attorneys, I said that we were offering this amendment in anticipation of another amendment which would be brought up later in the proposal. The problem that we have in northern Michigan was recognized when we discussed section a, and we are, in proposing this new section, disposing of the problem of the establishment of an inferior court not of record which we feel will meet our problem in northern Michigan.

**CHAIRMAN VAN DUSEN:** The question is on the amendment offered by Messrs. Ford, Ostrow and Garvin. Judge Gadola, did you desire recognition on this question?

**MR. GADOLA:** Yes. If the Chair please, and members of this delegation, I am here to advance the theory, perhaps the first time openly, with their solicitation, that I have been in this position, I am representing the labor unions of the city of Flint. They have cussed me for years, but now I am here. They are part of my constituents, and they are thoroughly in favor of the abolition of the justice courts, and that just as speedily as we can do it. If you have a body malignancy, you excise it as speedily as you can.

We have today this proposition that always presents itself: the urban against the rural, the thickly populated against the sparsely populated. And that exists here in this question. The people of outstate don't realize the conditions that exist in our urban areas, in our manufacturing areas, and don't realize the abuses that arise from the courts as they are presently constituted. If you have that malignancy in your body, you immediately ask for an operation. You don't ask to wait for a month or 2 months or 5 years to do it. You say, let's do it as speedily as we possibly can. And if we have that malignancy existing in our courts today, why should we wait for 5 years to cure that malignancy? And there is your equation. I think, of course, they wouldn't be in favor of the striking out of that as proposed by this amendment, but I would say that we should figure out some way to shorten up that period. You are making statutory courts. And when you make statutory courts, to some degree you make political courts. But that is necessary. We must trust the legislature in these problems, and I am not adverse to doing that. But I say we should lower that period and get it closer down and change it more speedily than the provision as now stands asks for.

**CHAIRMAN VAN DUSEN:** Mr. Mahinske.

**MR. MAHINSKE:** I would like to direct a question to Mr. Ford through the Chair.

**CHAIRMAN VAN DUSEN:** If the gentleman cares to answer, Mr. Mahinske.

**MR. MAHINSKE:** Mr. Ford, I have been going over this, and as I understand the intent and the effect of your amendment, what we will be doing here is taking the constitutional status away from present J.P.s, putting their existence into the

legislature, and then we will have a situation—you correct me if I am wrong here—where from time to time on the local level the J.P. court system can be abolished either by the legislature or by a request of the people at that local level, and until such time it will remain in force subject to any modifications imposed by law.

CHAIRMAN VAN DUSEN: Mr. Ford.

MR. FORD: I think it is correct. And perhaps I didn't mention, Mr. Mahinske, when I was presenting it before, but if you look at the present constitution, section 15 of article VII is the one that provides that not more than 4 justices of the peace will be elected in each township, and that is exactly what creates the constitutional status in the existing constitution and requires the existence of this office. This has been excluded. We have already voted on an exclusion report to take that out. Section 16 is the one that gives them their civil and criminal jurisdiction, except that it provides that they will have such criminal jurisdiction and duties as the legislature may provide, and that has also been excluded.

The effect of my amendment would be exactly the same as the effect of the committee's proposal. There is only one difference, and the one difference is that the committee proposal presupposes the necessity for complete abolition at this time.

If you believe in complete abolition being a necessity, then you should vote for the committee proposal. If you want to leave it to the legislature to abolish them in part or over a period of time or in most parts of the state where the people want to abolish them, then you should adopt the minority report amendment, because the justice of the peace will then under no section of this constitution have constitutional status or constitutional recognition of any kind. He will cease to exist as a constitutional officer. But his duties will not be automatically terminated in 5 years. The legislature will have to deliberately terminate it. It won't just happen. And that is the only difference. The 5 year death penalty is the only difference between the 2 provisions.

CHAIRMAN VAN DUSEN: Mr. Mahinske.

MR. MAHINSKE: On the basis of these remarks and on the basis of the fact that I don't go for these 5 year stays of execution here, plus the fact that there may be areas in the state that would want to abolish their J.P. system prior to a 5 year period, plus the fact that we are taking the existing constitutional status away from J.P.s which leaves them open to abolishment by the legislature, I would be inclined to vote for the minority report amendment that we have here.

CHAIRMAN VAN DUSEN: The question is on the amendment offered by Messrs. Ford, Ostrow and Garvin. Those in favor of the amendment will say aye. Those opposed will say no.

DELEGATES: Division.

CHAIRMAN VAN DUSEN: A division is requested. Is the demanded supported? It is supported. Those who are in favor of the minority report amendment offered by Messrs. Ford, Ostrow and Garvin 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. Ford, Ostrow and Garvin, the yeas are 36; the nays are 70.

CHAIRMAN VAN DUSEN: The amendment is not adopted. Are there further amendments to section i?

SECRETARY CHASE: None.

CHAIRMAN VAN DUSEN: If not, it will pass.

Section i is passed. The secretary will read section j.

SECRETARY CHASE: The following is section j:

[Section j was read by the secretary. For text, see above, page 1479.]

CHAIRMAN VAN DUSEN: For an explanation of section j, the Chair will recognize the chairman of the committee, Mr. Danhof.

MR. DANHOF: Mr. Chairman, I shall not yield on this one but explain it myself. This particular section relates only to what has previously been passed in regard to the setting up of staggered terms for circuit judges and probate judges which we passed in Committee Proposals 93 and 94. This is the scheduling provision therein. It requires that the legislature shall implement, by the time of the next election for those particular offices, terms of varying length, with this proviso: that none—and I repeat, that none—shall be shorter than the basic term provided herein for the office. The question may be raised whether or not this is a provision which should be in this particular proposal. I will submit that if it is found that this should be in the scheduling provisions, we are most willing that it be included therein. It is also possible that there will be some conflict between this and a provision put out by the committee on miscellaneous provisions and schedule. This can likewise be resolved should we find such a conflict.

The only basic provisions here are, one, that this be done by the next election for the circuit judges and the probate judges, and when they provide for the terms of varying lengths, the shortest one cannot be shorter than the basic term provided, which we have agreed shall be 6 years in the case of those offices. If there is anything that we provide in Committee Proposal 91 or 92 that needs scheduling, this would again likewise apply. Perhaps there would be some amendment or some change which would be needed depending on what we do on the supreme court. This is a scheduling provision in essence, and that is all that is contained herein, but it must be done by the next election.

CHAIRMAN VAN DUSEN: Mr. King.

MR. KING: Mr. Chairman, fellow delegates, I would like to address through the Chair a question to the chairman of the judicial committee, if I may.

CHAIRMAN VAN DUSEN: If the gentleman cares to answer.

MR. KING: Delegate Danhof, how is this thing to be implemented specifically? Could you give me an example? At the present time we have 5 circuit judges in my county whose term all expire in April—or they come up for reelection in April, 1965. Could you give me some idea what will happen at that time? Will all 5 of them run, first of all?

CHAIRMAN VAN DUSEN: Mr. Danhof.

MR. DANHOF: Mr. Chairman, Mr. King, in the first place, depending on whether we have an April election or not, they probably will not come up in April. But assuming they come up that fall or the fall prior to April, depending on which one we finally conclude, I would anticipate that they would run and that this provision would be set up. You have 5. I give you this as an example: 2 would be elected for 6 years, 2 for 8 years, and in the next case, maybe 1 for 10 years. When and if Oakland county gets a second circuit judge, he would fall in where you have the 1 provision.

Who would get the long term and who would get the short term? We had many varying proposals. One could be the highest number of votes. This might not necessarily be the right way, but this is the way the legislature would do it. The judge getting the largest number of votes could have his choice or get the longest term. Two, if they didn't want to do it that way, the judge elected then, certified as elected, who had the longest seniority on the bench they could provide his choice. They might do it by lot. But no one would get a shorter term than 6 years.

It was pointed out, why the seniority idea? It is possible that a judge who might be relatively close to retirement might not want the longest term. Maybe he would be perfectly happy to have just a 6 year term and leave it to the younger members of the bench to take the longest term. This is merely an example of what I envision that the legislature could do to begin to get this operation rolling. Then the next election as they would come up would be for the basic term of 6 years and, as judges were added, they could be added equally as the time went on, and you aren't going to always have this same number when you have an odd number, like

Success is failure turned inside out  
 The silver tint of the cloud of doubt.  
 And you may never tell how close you are  
 It may be nearer when it seems afar.  
 So stick to the fight when you're hardest hit  
 It's when things seem worst that you mustn't quit. (applause)

PRESIDENT NISBET: The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. President, may I have consent to offer the motion which I indicated I was going to offer today but was unable to this morning? I would ask the secretary to read it.

SECRETARY CHASE: Mr. Faxon offers the following motion: I move that following the conclusion of the proposals on the judicial branch, we move next to the report of the committee on legislative organization, and then to the executive branch, and then to the regular schedule.

MR. VAN DUSEN: Mr. President, a point of order. Is Mr. Faxon's motion not out of order at this point? We had passed the order of motions and resolutions on the calendar this morning.

PRESIDENT NISBET: Mr. Van Dusen, your point is well taken. Mr. Faxon did ask yesterday for this privilege. He was not here this morning when the order of business came up. With unanimous consent Mr. Faxon can make his motion. Is there unanimous consent?

A DELEGATE: No. I object.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: On the advice of our parliamentarian, I move that we return to the order of motions and resolutions.

PRESIDENT NISBET: Mr. Ford, the Chair is informed that it will be necessary for you to move that the rules be suspended to return to the order of motions and resolutions. Is that your motion?

MR. FORD: Yes. Thank you for the correction.

PRESIDENT NISBET: The motion by Mr. Ford is that the rules be suspended and we return to the order of motions and resolutions. Those in favor of that motion will say aye. Opposed will say no.

The Chair is in doubt. Those in favor of that motion will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the motion to suspend the rules, the yeas are 62; the nays are 66.

PRESIDENT NISBET: Two-thirds of the delegates not having voted in favor, the rules are not suspended. 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. All those in favor 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 rose this morning we had under consideration **Committee Proposal 96**. We had disposed of all of the sections of that proposal as presented by the committee, and had disposed of several amendments to the body of the proposal. Are there any further amendments to the body of the proposal?

SECRETARY CHASE: Mr. Ford, in accordance with the minority report of Messrs. Ford, Barthwell, Bledsoe and Garvin—

CHAIRMAN VAN DUSEN: Mr. Ford.

MR. FORD: In view of the action previously taken by the committee, unless one of the cosponsors of the minority report to the committee amendment to Committee Proposal 96

objects, I would like to withdraw our minority report and motion at this time.

*For the minority report to the committee amendment, see above, page 1554.*

CHAIRMAN VAN DUSEN: Mr. Ford withdraws his minority report amendment. Does Mr. Barthwell concur?

MR. BARTHWELL: Yes.

CHAIRMAN VAN DUSEN: Mr. Bledsoe?

MR. BLEDSOE: I concur.

CHAIRMAN VAN DUSEN: Mr. Garvin?

MR. GARVIN: Yes.

CHAIRMAN VAN DUSEN: With the consent of his cosponsors, the amendment is withdrawn by Mr. Ford. Are there further amendments to the body of Committee Proposal 96?

SECRETARY CHASE: There are none on file, Mr. Chairman.

CHAIRMAN VAN DUSEN: If not, the proposal will pass. Committee Proposal 96, as amended, is passed. The secretary will read the first exclusion report.

SECRETARY CHASE: From the committee on judicial branch, by Mr. Danhof, chairman, **Exclusion Report 2042**, A report recommending the exclusion of article VII, sections 15, 16 and 21.

*Following is Exclusion Report 2042 as read by the secretary, and the reasons submitted in support thereof:*

The committee on judicial branch recommends that article VII, sections 15, 16 and 21 of the present constitution be excluded from the new constitution.

Mr. Danhof, chairman of the committee on judicial branch, submits the following reasons in support of Exclusion Report 2042:

The committee has determined that the constitutional status of justices of the peace and circuit court commissioners make the inclusion of these sections no longer necessary. The reasons for the committee's determination are more fully set forth in connection with Committee Proposals 90 and 96.

CHAIRMAN VAN DUSEN: The question is on the exclusion report. Mr. Danhof.

MR. DANHOF: Mr. Chairman and members of the committee, this eliminates the references to the justices of the peace, their jurisdiction, and the circuit court commissioners. In view of the action previously taken by this convention regarding those officers and the provisions made for them, this exclusion report would seem to be in order, and I urge acceptance.

CHAIRMAN VAN DUSEN: Are there any amendments to the exclusion report? Mr. Downs.

MR. DOWNS: A parliamentary inquiry. Would you please read again the sections that are excluded?

CHAIRMAN VAN DUSEN: The secretary will read.

SECRETARY CHASE: As they are printed in the exclusion report, sections 15, 16 and 21 of article VII.

CHAIRMAN VAN DUSEN: Are there any amendments to the exclusion report? Mr. Ford.

MR. FORD: Mr. Chairman, members of the committee, I would like to support the committee on judicial branch, and urge a yes vote. I want to point out one word of caution, however, and that is that you should bear in mind in voting for the exclusion report—and I'm going to vote for it, and hope you do, too—that you are taking the last reference to a guarantee of a local court at the township level out of the constitution, and this should be borne in mind when we reach the other sections.

CHAIRMAN VAN DUSEN: Are there any amendments to the exclusion report? Mr. Mahinske.

MR. MAHINSKE: Is this divisible?

practice to take the appointment. If he has given up his practice to take this appointment, then I think it is only fair to allow him to run under the circumstances that obtained at the time that he made the choice and accepted the appointment. And whether we continue with the language that was just adopted or not, if we are going to be fair and if we are going to be consistent about all of the reasons that were advanced by the committee for the designation in the first place, I believe that we should afford the designation to all those judges who happen to be on the bench at the time this constitution is adopted.

**VICE PRESIDENT HUTCHINSON:** Mr. Higgs.

**MR. HIGGS:** Mr. President and fellow delegates, this is just another attempt to preserve an appointive type of system. If you would like to have a truly elective system, I urge that you vote no on the Ford amendment.

**VICE PRESIDENT HUTCHINSON:** The question is upon the amendment offered by Mr. Ford. The secretary will read it once again.

**SECRETARY CHASE:** The amendment is:

[The amendment was again read by the secretary. For text, see above, page 1629.]

**MR. FORD:** Mr. President, I ask for a roll call vote.

**VICE PRESIDENT HUTCHINSON:** Mr. Ford demands the yeas and nays on his amendment. Is the demand supported? The demand is supported. All those in favor of the amendment offered by Mr. Ford 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 — 35**

|                     |               |             |
|---------------------|---------------|-------------|
| Baginski            | Garvin        | Murphy      |
| Balcer              | Greene        | Nord        |
| Barthwell           | Hart, Miss    | Ostrow      |
| Buback              | Hatcher, Mrs. | Perlich     |
| Cushman, Mrs.       | Hodges        | Snyder      |
| Dade                | Hood          | Stopczynski |
| Douglas             | King          | Suzore      |
| Downs               | Lesinski      | Tubbs       |
| Elliott, Mrs. Daisy | Mahinske      | Walker      |
| Faxon               | Marshall      | Woelfenden  |
| Follo               | McCauley      | Young       |
| Ford                | McGowan, Miss |             |

**Nays — 86**

|                |               |                 |
|----------------|---------------|-----------------|
| Allen          | Gover         | Powell          |
| Andrus, Miss   | Gust          | Prettie         |
| Anspach        | Habermehl     | Pugsley         |
| Batchelor      | Hanna, W. F.  | Radka           |
| Beaman         | Hannah, J. A. | Rajkovich       |
| Bentley        | Haskill       | Richards, J. B. |
| Blandford      | Hatch         | Richards, L. W. |
| Bonisteel      | Higgs         | Romney          |
| Boothby        | Howes         | Rood            |
| Brake          | Hoxie         | Rush            |
| Brown, G. E.   | Iverson       | Seyferth        |
| Butler, Mrs.   | Judd, Mrs.    | Shackleton      |
| Conklin, Mrs.  | Karn          | Shaffer         |
| Danhof         | Kirk, S.      | Shanahan        |
| Davis          | Knirk, B.     | Sharpe          |
| Dehnke         | Koeze, Mrs.   | Sleder          |
| Dell           | Krolikowski   | Spitler         |
| DeVries        | Kuhn          | Stafseth        |
| Donnelly, Miss | Lawrence      | Staiger         |
| Doty, Dean     | Leibbrand     | Stamm           |
| Doty, Donald   | Leppien       | Stevens         |
| Durst          | Lundgren      | Thomson         |
| Erickson       | Martin        | Turner          |
| Everett        | McAllister    | Upton           |
| Farnsworth     | McLogan       | Van Dusen       |
| Figy           | Millard       | Wanger          |
| Finch          | Page          | Wood            |
| Gadola         | Perras        | Yeager          |
| Goebel         | Plank         |                 |

**VICE PRESIDENT HUTCHINSON:** The amendment is not adopted.

**SECRETARY CHASE:** Mr. Ford offers the following amendment:

1. Amend page 3 by striking out all of lines 11 through 17; and in line 18, by striking out "special statutory" and inserting "Sec. i. All"; and in line 20, after "unless" by striking out "they" and inserting "such powers"; and after "are" by inserting "modified or"; so the section will then read:

Sec. i. All courts in existence as of the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until and unless such powers are modified or abolished by law.

**VICE PRESIDENT HUTCHINSON:** On the amendment, Mr. Ford.

**MR. FORD:** This has been debated. Basically, this is a provision which would take back out the 5 year death penalty, self executing, that has been passed by the committee of the whole with regard to the justice of the peace and the circuit court commissioner, leaving the matter of their complete abolition or modification entirely in the hands of the legislature, with no strings attached. This is about as flexible as you can get. And all of the reasons that I might give are contained on pages 581 and 582 of the journal.

**VICE PRESIDENT HUTCHINSON:** The question is upon the amendment offered by Mr. Ford. All those in favor will say aye. Opposed will say no.

The amendment is not adopted.

**MR. FORD:** Mr. President, I ask for the yeas and nays.

**VICE PRESIDENT HUTCHINSON:** Mr. Ford demands the yeas and nays. Is the demand supported? The demand is supported. All those in favor —

**MR. BENTLEY:** Mr. President, I will ask that the board be cleared.

**VICE PRESIDENT HUTCHINSON:** Will the board first be cleared. Please clear the board. 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 — 41**

|                     |               |             |
|---------------------|---------------|-------------|
| Baginski            | Hatcher, Mrs. | Plank       |
| Balcer              | Hodges        | Sablich     |
| Boothby             | Hoxie         | Shanahan    |
| Brown, T. S.        | Knirk, B.     | Sleder      |
| Buback              | Koeze, Mrs.   | Snyder      |
| Doty, Dean          | Mahinske      | Spitler     |
| Doty, Donald        | Marshall      | Stafseth    |
| Downs               | McAllister    | Stopczynski |
| Elliott, Mrs. Daisy | McCauley      | Suzore      |
| Finch               | Murphy        | Walker      |
| Ford                | Ostrow        | Wilkowski   |
| Garvin              | Pellow        | Wood        |
| Gover               | Perlich       | Young       |
| Greene              | Perras        |             |

**Nays — 79**

|               |               |                 |
|---------------|---------------|-----------------|
| Allen         | Faxon         | Millard         |
| Andrus, Miss  | Figy          | Nord            |
| Anspach       | Gadola        | Page            |
| Barthwell     | Goebel        | Powell          |
| Batchelor     | Gust          | Prettie         |
| Beaman        | Hanna, W. F.  | Pugsley         |
| Bentley       | Hannah, J. A. | Rajkovich       |
| Binkowski     | Hart, Miss    | Richards, J. B. |
| Blandford     | Haskill       | Richards, L. W. |
| Bledsoe       | Hatch         | Romney          |
| Bonisteel     | Higgs         | Rood            |
| Brake         | Hood          | Rush            |
| Brown, G. E.  | Howes         | Seyferth        |
| Butler, Mrs.  | Iverson       | Shackleton      |
| Conklin, Mrs. | Judd, Mrs.    | Shaffer         |
| Cushman, Mrs. | Karn          | Staiger         |
| Dade          | Kirk, S.      | Stamm           |
| Danhof        | Krolikowski   | Stevens         |
| Davis         | Kuhn          | Thomson         |
| Dehnke        | Lawrence      | Tubbs           |

**SECRETARY CHASE:** On the adoption of the amendment offered by Mr. Ford, the yeas are 35; the nays are 86.

|                |               |            |
|----------------|---------------|------------|
| Dell           | Leibrand      | Turner     |
| DeVries        | Leppien       | Upton      |
| Donnelly, Miss | Lesinski      | Van Dusen  |
| Durst          | Lundgren      | Wanger     |
| Erickson       | Martin        | Woolfenden |
| Everett        | McGowan, Miss | Yeager     |
| Farnsworth     |               |            |

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Ford, the yeas are 41; the nays are 79.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Mr. Mahinske offers the following amendment:

1. Amend page 3, line 11, after "of" by striking out "circuit court commissioner and"; so that the first sentence of section i will read:

The office of justice of the peace shall continue to have, for a period of not to exceed 5 years from the date this constitution becomes effective, all their respective powers and jurisdiction. . . . and so forth.

VICE PRESIDENT HUTCHINSON: On the amendment, the Chair recognizes Mr. Mahinske.

MR. MAHINSKE: Mr. President, members of the convention, I offer this amendment to strike the office of circuit court commissioner from the automatic death penalty clause here basically because of the tremendous work load that the circuit court commissioners carry. Now, there are 110 circuit court commissioners in the state—at least one in every circuit court. In Wayne county we have more than one because of the work load. I would like to point out what we would be doing if we abolish circuit court commissioners in Wayne county, and I think to a great extent this would hold true for Oakland, Macomb, Washtenaw, Genesee, possibly Bay and Ingham counties.

For the past 5 years the docket or the work load of the circuit court commissioners in Wayne county has been approximately 20,000 cases a year, plus something in addition to 4,000 writs that are heard, plus over 500 petitions that are heard, plus the handling of all chancery sales, plus all the circuit court referral work, which is all done on a current basis so that there's no backlog there, plus the fact that all of the above matters may be subject to jury trials, depending on whether or not the parties seek a jury trial here. Also in Wayne county you will be abolishing the circuit court commissioners bench, which is sustained on a salary basis by the county of Wayne itself. In other words, this amounts to a supplemental bench that we have in Wayne county that we pay for ourselves. There are no state funds involved here. As far as the outstate counties are concerned, I have no idea whether they are all contributed to by the state itself or if any of them are completely supported by their individual counties.

For these reasons, plus the fact that we have not provided for what is going to happen to this 23,000 or 24,000 cases a year by abolishing this court—we are going to throw them, as I see it, back onto the circuit court docket, which is some 24 months behind now in Wayne county, and up to 18 in most other counties—for these reasons I would strike the reference to the circuit court commissioners in section i.

VICE PRESIDENT HUTCHINSON: Mr. Danhof.

MR. DANHOF: Mr. President, members of the convention, Mr. Mahinske's objectives may be laudable, but I submit that what he is doing is that he isn't even giving the circuit court commissioners 5 years. If he takes them out of this provision, since we have nowhere else provided for them, immediately upon the adoption of this constitution they shall perish, because they have no basis in law or in the constitution. Unless the legislature would see fit in the interim between the time of the adoption of the constitution and its effective date to recreate them as a statutory office, they would cease to exist as of the date this constitution became effective.

Now, by this provision there is at least a 5 year time period during which the legislature, in its wisdom, may study the

matter and make provision for this, even if it's nothing more, Mr. Mahinske, than to reenact either under the present name or some other name, as a statutory court, the circuit court commissioner or somebody or other to take their place. But I submit to you that if you strike them, then you have given them the death penalty not in 5 years, but immediately.

MR. MAHINSKE: I would like to point out, just to save further debate here—

VICE PRESIDENT HUTCHINSON: Mr. Mahinske asks unanimous consent to speak again on his amendment. There is no objection. You may proceed.

MR. MAHINSKE: I think a proponent has more than one opportunity anyway.

VICE PRESIDENT HUTCHINSON: You're right; you have 2. The Chair stands corrected.

MR. MAHINSKE: I have an amendment which I have not submitted yet which would exclude all reference to section 21 of the article with reference to the exclusion report, and I think this would take care of the objections Mr. Danhof would have. In the event that this would pass, the amendment to amend the exclusion report would put the existing language back in the constitution.

VICE PRESIDENT HUTCHINSON: Mr. Bledsoe.

MR. BLEDSOE: Mr. President and fellow delegates, in view of the fact of the tremendous work load that we have in Wayne county, and which the courts have come before the judiciary time and again and complained of, and in view of the fact that under our present regulation that we'll be under, under the ruling of the circuit courts, which will have control, managerial and otherwise, over all of the courts of the circuit and other jurisdictions, I think unquestionably that Mr. Danhof is correct that there is some question as to whether or not they are carrying the work load that they should.

Certainly, under the probabilities of having a reorganization, and under the direction that they will be under, under the present contemplated system, it would simply be a matter of organization to harness them and get them into line and get work that will certainly be for the best interests of the people who have litigation coming up in those courts. And as Chairman Danhof has said, if we eliminate them now we foreclose that possibility.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Mahinske.

MR. MAHINSKE: I would like to call for the yeas and the nays.

VICE PRESIDENT HUTCHINSON: Mr. Mahinske demands the yeas and nays on his amendment. Is the demand supported? The demand is supported. The Chair recognizes Mr. Binkowski.

MR. BINKOWSKI: Mr. President, I would like to ask Mr. Danhof a question to try to clarify the point that he made. Mr. Danhof, it seems to me that every one of the present constitutional provisions are implemented by statute, and even if the office of circuit court commissioner were removed from the constitution, the existing statutes would still be in full force and effect until the legislature did something very positively about them; isn't that correct?

MR. DANHOF: Mr. Binkowski, it is my understanding that the statutes do not create the office. They may set forth the jurisdiction of the office, but they do not necessarily create the office. The office is created in the constitution. And as we have provided, there shall be a 5 year time during which these—and I use the word advisedly—inferior court offices will remain effective; and in view of the language adopted under section m, during this time there shall be established these courts of limited jurisdiction to take over these particular duties and the powers therein.

I'm not familiar with all of the statutes, Mr. Binkowski, but I would venture an opinion that they do not create the office, and I still think there is sufficient time, ample time, to handle the particular problem without excepting the circuit court commissioner from this particular section.

MR. BINKOWSKI: Mr. President, I think that this point is very important, and I think it should be clarified. In other



words, it is my understanding that every one of the provisions are implemented by statute, and I don't see how the statutes would be affected at all in the event that this convention recommended the deletion of the office of circuit court commissioner. It seems to me the legislature would have to do something very positive about it, in a very positive way. I think that this point is rather important on this question.

VICE PRESIDENT HUTCHINSON: The question is upon the amendment offered by Mr. Mahinske, on which the yeas and nays have been demanded. All 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 record the vote.

*The roll was called and the delegates voted as follows:*

Yeas — 28

|              |               |            |
|--------------|---------------|------------|
| Baginski     | Garvin        | McAllister |
| Balcer       | Greene        | McCauley   |
| Binkowski    | Hatcher, Mrs. | Murphy     |
| Boothby      | Hodges        | Ostrow     |
| Buback       | Hood          | Pellow     |
| Dade         | Krolkowski    | Perlich    |
| Doty, Donald | Kuhn          | Snyder     |
| Erickson     | Mahinske      | Walker     |
| Follo        | Marshall      | Wilkowski  |
| Ford         |               |            |

Nays — 89

|                     |               |                 |
|---------------------|---------------|-----------------|
| Andrus, Miss        | Finch         | Pugsley         |
| Anspach             | Gadola        | Radka           |
| Austin              | Goebel        | Rajkovich       |
| Batchelor           | Gover         | Richards, J. B. |
| Beaman              | Hart, Miss    | Richards, L. W. |
| Bentley             | Haskill       | Romney          |
| Blandford           | Hatch         | Rood            |
| Bledsoe             | Higgs         | Rush            |
| Bonisteel           | Howes         | Sablich         |
| Brake               | Hoxie         | Seyferth        |
| Brown, G. E.        | Iverson       | Shackleton      |
| Butler, Mrs.        | Judd, Mrs.    | Shaffer         |
| Conklin, Mrs.       | Karn          | Sleder          |
| Cudlip              | King          | Spitler         |
| Cushman, Mrs.       | Kirk, S.      | Stafseth        |
| Danhof              | Knirk, B.     | Staiger         |
| Davis               | Koeze, Mrs.   | Stamm           |
| Dehnke              | Lawrence      | Stevens         |
| Dell                | Leibbrand     | Stopczynski     |
| DeVries             | Leppien       | Suzore          |
| Donnelly, Miss      | Lesinski      | Thomson         |
| Doty, Dean          | Martin        | Tubbs           |
| Downs               | McGowan, Miss | Turner          |
| Durst               | Millard       | Upton           |
| Elliott, A. G.      | Nord          | Van Dusen       |
| Elliott, Mrs. Daisy | Page          | Wood            |
| Everett             | Perras        | Woolfenden      |
| Farnsworth          | Plank         | Yeager          |
| Faxon               | Powell        | Young           |
| Figy                | Prettie       |                 |

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Mahinske, the yeas are 28; the nays are 89.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: That is the last amendment on the desk, Mr. President.

VICE PRESIDENT HUTCHINSON: **Committee Proposal 96**, as amended, is referred to the committee on style and drafting.

*Following is Committee Proposal 96 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 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 have a common seal. Except as authorized otherwise by this constitution, justices and judges of the courts of record of this state shall be lawyers 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. No judge or justice of any court in this state shall be paid from the fees of his office nor shall the amount of his salary be measured by the fees or other moneys received nor by the amount of judicial activity.

**Sec. b.** Whenever a judge shall remove his domicile beyond the limits of the territory from which he was elected, he shall be deemed to have vacated his office.

**Sec. c.** A justice and a 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 1 year thereafter.

**Sec. d.** When a vacancy occurs in the office of an elected judge of any court of record, it shall be filled at a general or special election according to law. The supreme court is empowered to authorize persons who have served as judges and have voluntarily retired, to perform judicial duties for the limited period of time from the occurrence of the vacancy until the successor is elected and qualified.

**Sec. e.** 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. f.** Any judge of probate serving at the time this constitution becomes effective may serve the remainder of the term and be eligible for reelection to his present office regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

**Sec. g.** Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within the 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 courts shall receive an annual salary as provided by law. In addition to the salary paid from the state treasury, each circuit judge may receive from any county in which he regularly holds court such additional salary as may be determined from time to time by the board of supervisors of the county. In any county where such additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

**Sec. h.** For reasonable cause, which shall not be sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of 2/3 of the members elected to each house of the legislature; and the cause for which such removal is required shall be stated at length in such resolution.

**Sec. i.** The office of circuit court commissioner and justice of the peace shall continue to have, for a period of not to exceed 5 years from the date this constitution becomes effective, all their respective powers and jurisdiction until the time within this period that they are abolished or their jurisdiction and powers are transferred to, or invested in, other courts that shall be established in accordance with this constitution.

Special statutory courts in existence as of the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until and unless they are abolished by law.

**Sec. j.** The provisions of this constitution requiring the establishment of staggered terms of offices in existence, shall be implemented at the next election for such offices by legislation providing for elections for terms of varying length, none of which shall be shorter than the basic term provided herein for the office.

**Sec. k.** Each branch of the legislature as well as the governor shall have the authority to request the opinion of the supreme court upon important questions of law upon solemn occasions, in connection with legislation after it shall have been enacted into law but before its effective



date. Such opinions shall relate only to questions of constitutionality.

Sec. l. Any elected judge of a circuit court or probate court may become a candidate in the primary election for the office of which he is then the incumbent, by filing a declaration of intention at such time and in such office as shall be provided by law.

Sec. m. Within 5 years from the date this constitution becomes effective, and subject to the limitations contained in Committee Proposal 90 and section a of Committee Proposal 96, the legislature shall establish statutory courts of limited jurisdiction inferior to the circuit court with a definition of their powers and jurisdiction, the location and number of such courts, the qualifications of the judges who shall preside therein, the method of their election and tenure of office and the amount of their salary and by what governmental units the same shall be paid.

SECRETARY CHASE: Mr. President, the committee of the whole has also had under consideration **Exclusion Report 2042**, A report recommending the exclusion of article VII, sections 15, 16 and 21. It reports this back to the convention without amendment and with the recommendation that it be adopted.

VICE PRESIDENT HUTCHINSON: The question is upon adopting the exclusion report. All those in favor will say aye. Opposed will say no.

**Exclusion Report 2042** is adopted and referred to the committee on style and drafting.

*For Exclusion Report 2042 as referred to the committee on style and drafting, see above, page 1621.*

SECRETARY CHASE: Mr. President, the committee of the whole has also had under consideration **Exclusion Report 2043**, A report recommending the exclusion of article VII, sections 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 17, 19, 20 and 23. It reports this back to the convention without amendment, and with the recommendation that it be adopted.

VICE PRESIDENT HUTCHINSON: The question is upon adopting the exclusion report. All those in favor will say aye. Opposed will say no.

**Exclusion Report 2043** is adopted and is referred to the committee on style and drafting.

*For Exclusion Report 2043 as referred to the committee on style and drafting, see above, page 1622.*

SECRETARY CHASE: This completes the report of the committee of the whole, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. King.

MR. KING: Mr. President, it seems to me there's one thing that we still have left to handle under the judicial section. Now that Delegates Farnsworth and Hubbs have been duly installed as honorary barristers, I should like to nominate that long suffering Delegate Barthwell to this same rank of honorary barrister. I should also like to move at this time that we bestow upon the 20 lawyers who served on the judicial committee — and I had a hard time finding a suitable rank, but I looked through an old Naval Journal, and the ancient and distinguished naval rank of pharmacist's mate second class seems appropriate. (laughter)

MR. NORD: Point of order, Mr. President. Are motions in order at this time, Mr. President?

VICE PRESIDENT HUTCHINSON: Motions as such are not in order, Mr. Nord.

MR. NORD: Then I gather that Mr. King's motion is not in order, am I correct?

VICE PRESIDENT HUTCHINSON: The Chair didn't accept it as a motion. The Chair took it as a rhetorical motion. Mrs. Butler.

MRS. BUTLER: I rise to a point of personal privilege, Mr. President.

VICE PRESIDENT HUTCHINSON: What is the point?

MRS. BUTLER: I would like to speak on the disrespect for our retired judges shown this afternoon.

VICE PRESIDENT HUTCHINSON: The lady may proceed, without objection.

MRS. BUTLER: I feel, with the political overtones this afternoon, that I really should start out by saying that I demand equal time. But I am appalled at the disrespect for our retired judges. We have here in the convention a number of brilliant retired judges, and I don't like to hear them spoken of as out to pasture, and other terms. For the people who so glibly talk about jealousy because of the 6 terms of Governor Williams and the insulting jackpot of the latest political maneuver of another Democratic governor, I would say that we are jealous, that's all right. But as far as the political overtones in wanting retired judges to serve, I would like to ask, what would you do with Eleanor Roosevelt? (laughter)

VICE PRESIDENT HUTCHINSON: The Chair recognizes the lady from Wayne, Miss McGowan.

MISS MCGOWAN: Mr. President, I rise to ask permission to speak.

VICE PRESIDENT HUTCHINSON: Miss McGowan asks unanimous consent to make a statement. Is there objection? The Chair hears no objection. You may proceed.

MISS MCGOWAN: Mr. President and fellow delegates, my statement deals with a fellow delegate — a fellow lawyer — whose party affiliation differs from my party affiliation. To use a trite expression, life has been good to me, and it has been my privilege, as I am sure it has been your privilege, to meet persons of integrity, impartiality, professional competence, humility and Christian charity. Of the persons I have had the honor of knowing who fall in this category, it is my opinion that Mr. Robert Danhof, the chairman of the committee on judicial branch of this constitutional convention, takes his place high among these top echelon individuals. I feel that I would be remiss if I did not reflect upon the truth at this time.

You entrusted Mr. Danhof with a high honor and privilege — the chairmanship of the committee on judicial branch. I feel sure he can give an excellent accounting of his stewardship. He brought to the committee on judicial branch superior legal knowledge, professional competence and skill; yet, he exhibited complete understanding for each member of the committee and for every person who appeared before the committee. He exerted an incalculable influence for good. He not only has a great intellect, but a great heart. Mr. Danhof, a member of the majority party serving as chairman of the committee on judicial branch, was completely unbiased, and sought to and did utilize the abilities and talents of each member of his committee with the thought in mind of the greatest good for the greatest number, and that thought alone. He conducted the committee meetings and deliberations so as to encourage each member of the committee to search for judicial truth and judicial truth alone in order that we could recommend to the convention a judicial system which we felt could adequately and efficiently serve and protect all of the people of the state of Michigan. Searching for judicial truth with 20 lawyers and one nonlawyer at times became laborious; yet Mr. Danhof never lost his sense of humor or balance or love for his brother.

As you know, Mr. Danhof is a young man. I was tremendously encouraged, inspired, and impressed by the marked respect he showed for all of the members of his committee and especially the respect he showed to the members of the committee who had lived longer than he and achieved greater experience. It is heart warming to reflect upon the respect he showed to and for the retired circuit judges who are members of the committee — Judge Mosier, Judge Pugsley and Judge Leibbrand.

I could go on acclaiming his excellence. In closing I would just like to say to you, thank you for giving us Mr. Danhof as chairman of the committee on judicial branch. He served well. We would wish for Mr. Danhof fair winds and smooth sailing. We would pray that almighty God would love him and grant him an even greater increase of the virtues of wisdom, justice, prudence and understanding. Thank you. (applause)

## 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 Krolkowski, 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, Krolkowski, 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.

broad tax base? The tax base not keeping up with the increase in the school population?

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: In recent years, the primary school money has been distributed simply as a part of the general school aid, in effect, while it is paid to the districts on a school census basis. It is a deductible item when you compute your state aid. And therefore, for all practical purposes, it is simply a part of state aid as distributed.

MR. FORD: Thank you, Mr. Brake.

PRESIDENT NISBET: Those in favor of the Mahinske amendment will vote aye. Those opposed will vote no. Have you all voted? If so, the secretary will lock the machine and record the vote.

*The roll was called and the delegates voted as follows:*

#### Yeas—51

|                |            |                 |
|----------------|------------|-----------------|
| Andrus, Miss   | Follo      | Perlich         |
| Anspach        | Ford       | Perras          |
| Austin         | Garvin     | Pollock         |
| Balcer         | Hart, Miss | Pugsley         |
| Barthwell      | Heideman   | Rajkovich       |
| Binkowski      | Higgs      | Richards, L. W. |
| Bledsoe        | Hodges     | Rush            |
| Bonisteel      | Hoxie      | Sablich         |
| Bradley        | Kelsey     | Snyder          |
| Brown, T. S.   | Kuhn       | Spitler         |
| Buback         | Lesinski   | Sterrett        |
| Butler, Mrs.   | Liberato   | Stopczynski     |
| Cushman, Mrs.  | Madar      | Wilkowski       |
| Donnelly, Miss | Mahinske   | Wood            |
| Downs          | Marshall   | Woolfenden      |
| Erickson       | McAllister | Young           |
| Faxon          | Ostrow     | Youngblood      |

#### Nays—71

|                |              |                 |
|----------------|--------------|-----------------|
| Allen          | Gover        | Powell          |
| Baginski       | Habermehl    | Prettie         |
| Batchelor      | Hanna, W. F. | Radka           |
| Beaman         | Haskill      | Richards, J. B. |
| Bentley        | Hatch        | Romney          |
| Blandford      | Howes        | Rood            |
| Brake          | Hubbs        | Seyferth        |
| Brown, G. E.   | Iverson      | Shackleton      |
| Conklin, Mrs.  | Judd, Mrs.   | Shaffer         |
| Cudlip         | Karn         | Shanahan        |
| Danhof         | Kirk, S.     | Sharpe          |
| Dehnke         | Knirk, B.    | Sleder          |
| Dell           | Koeze, Mrs.  | Stafseth        |
| DeVries        | Lawrence     | Staiger         |
| Doty, Dean     | Leibbrand    | Stamm           |
| Doty, Donald   | Leppien      | Stevens         |
| Durst          | Martin       | Thomson         |
| Elliott, A. G. | McCauley     | Turner          |
| Everett        | McLogan      | Tweedie         |
| Farnsworth     | Millard      | Upton           |
| Figy           | Mosier       | Van Dusen       |
| Finch          | Nisbet       | Wanger          |
| Gadola         | Page         | White           |
| Goebel         | Plank        |                 |

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Mahinske and others, the yeas are 51; the nays are 71.

PRESIDENT NISBET: The amendment is not adopted. The question now is on the adoption of Committee Proposal 52 as amended. Will you please clear the board. Mr. Stevens.

MR. STEVENS: Mr. President and delegates, to come back to this situation so ably explained by Dr. Hannah on Thursday, it is very important that the state have this money for the school aid fund. If this does not pass, there is no question but what the legislature will be requested by many local communities to try to get this tax base back to them for local use, and it will certainly help to destroy the whole concept of equalization in education in Michigan whereby small communities out in the state and otherwise are able to share the state money on a basis of school membership.

PRESIDENT NISBET: Time is up. The question is on the proposal. Those in favor will vote aye. Those opposed will

vote nay. This is on Committee Proposal 52, passage of Committee Proposal 52 as amended. 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—86

|                |               |                 |
|----------------|---------------|-----------------|
| Allen          | Howes         | Prettie         |
| Andrus, Miss   | Hoxie         | Pugsley         |
| Anspach        | Hubbs         | Radka           |
| Bentley        | Iverson       | Rajkovich       |
| Binkowski      | Judd, Mrs.    | Richards, J. B. |
| Blandford      | Karn          | Richards, L. W. |
| Bledsoe        | Kelsey        | Rood            |
| Bonisteel      | Koeze, Mrs.   | Rush            |
| Boothby        | Kuhn          | Sablich         |
| Bradley        | Lawrence      | Shackleton      |
| Butler, Mrs.   | Leibbrand     | Shaffer         |
| Conklin, Mrs.  | Leppien       | Sharpe          |
| Dehnke         | Lesinski      | Snyder          |
| Dell           | Liberato      | Spitler         |
| Donnelly, Miss | Mahinske      | Stafseth        |
| Doty, Dean     | McAllister    | Stamm           |
| Downs          | McCauley      | Sterrett        |
| Erickson       | McGowan, Miss | Stevens         |
| Faxon          | McLogan       | Thomson         |
| Figy           | Millard       | Turner          |
| Finch          | Mosier        | Tweedie         |
| Follo          | Nisbet        | Upton           |
| Ford           | Ostrow        | Walker          |
| Goebel         | Page          | Wanger          |
| Gust           | Perlich       | White           |
| Habermehl      | Perras        | Wilkowski       |
| Haskill        | Plank         | Wood            |
| Heideman       | Pollock       | Woolfenden      |
| Higgs          | Powell        |                 |

#### Nays—40

|               |                     |             |
|---------------|---------------------|-------------|
| Austin        | Doty, Donald        | Kirk, S.    |
| Baginski      | Durst               | Madar       |
| Balcer        | Elliott, A. G.      | Marshall    |
| Barthwell     | Elliott, Mrs. Daisy | Martin      |
| Batchelor     | Everett             | Romney      |
| Beaman        | Farnsworth          | Seyferth    |
| Brake         | Gadola              | Shanahan    |
| Brown, G. E.  | Garvin              | Sleder      |
| Brown, T. S.  | Gover               | Staiger     |
| Buback        | Hanna, W. F.        | Stopczynski |
| Cudlip        | Hart, Miss          | Van Dusen   |
| Cushman, Mrs. | Hatch               | Young       |
| Danhof        | Hodges              | Youngblood  |
| DeVries       |                     |             |

SECRETARY CHASE: On the passage of Committee Proposal 52 as amended, the yeas are 86; the nays are 40.

PRESIDENT NISBET: Committee Proposal 52, as amended, is passed and referred to the committee on style and drafting.

*Following is Committee Proposal 52 as amended and rereferred to the committee on style and drafting:*

Sec. a. The legislature shall provide for the assessment by the state of the property of those businesses whose property is now assessed by the state, and of other property as designated by the legislature, and for the levy 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.

SECRETARY CHASE: Item 6 on the calendar is 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.

*Following is Committee Proposal 96 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 1632):*

Sec. a. 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 have a common seal. Except as [authorized] otherwise AUTHORIZED by this constitution, justices and judges of the courts of record of this state shall be [lawyers] 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. A<sup>1</sup>. No judge or justice of any court [in] OF this state shall be paid from the fees of his office nor shall the amount of his salary be measured by [the] fees, [or] other moneys received [nor] OR by the amount of judicial activity OF HIS OFFICE.

Sec. b. Whenever a judge [shall remove] REMOVES his domicile beyond the limits of the territory from which he was elected, he shall be deemed to have vacated his office.

Sec. c. [A] ANY justice [and a] 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 [1] ONE year thereafter.

Sec. d. [When] A vacancy [occurs] in the ELECTIVE office of [an elected] A judge of any court of record [, it] shall be filled at a general or special election according to law. The supreme court [is empowered to] MAY authorize persons who have served as judges and WHO have [voluntarily] retired VOLUNTARILY OR BECAUSE OF AGE, to perform judicial duties for the limited period of time from the occurrence of the vacancy until the successor is elected and qualified.

Sec. e. 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. f. Any judge of probate serving at the time this constitution becomes effective may serve the remainder of the term and be eligible for [reelection] ELECTION to his present office regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

Sec. g. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within [the] 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 courts shall receive an annual salary as provided by law. In addition to the salary RECEIVED [paid] from the state treasury, each circuit judge may receive from any county in which he regularly holds court such additional salary as may be determined from time to time by the board of supervisors of the county. In any county where such additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

Sec. h. For reasonable cause, which [shall not be] IS NOT sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of 2/3 of the members elected to AND SERVING IN each house of the legislature[;], [and] The cause for [which such] removal [is required] shall be stated at length in such resolution.

Sec. i. The [office] OFFICES of circuit court commissioner and justice of the peace shall [continue to have, for a period of not to exceed] BE ABOLISHED AT THE EXPIRATION OF 5 years from the date this constitution becomes effective[, all their respective powers and jurisdic-

tion until the time within this period that they are abolished or their jurisdiction and powers are transferred to, or invested in, other courts that shall be established in accordance with this constitution] OR MAY WITHIN THIS PERIOD BE ABOLISHED BY LAW. THEIR JURISDICTION AND POWERS WITHIN THIS PERIOD SHALL BE AS PROVIDED BY LAW. WITHIN SUCH 5 YEAR PERIOD, THE LEGISLATURE SHALL ESTABLISH COURTS OF LIMITED JURISDICTION WITH POWERS AND JURISDICTION DEFINED BY LAW. THE LOCATION OF SUCH COURTS, AND THE QUALIFICATIONS, TENURE, METHOD OF ELECTION, AND SALARY OF THE JUDGES OF SUCH COURTS, AND BY WHAT GOVERNMENTAL UNITS THE SAME SHALL BE PAID, SHALL BE PROVIDED BY LAW, SUBJECT TO THE LIMITATIONS CONTAINED IN THIS ARTICLE.

[Special] Statutory courts in existence [as of] AT the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until [and unless] they are abolished by law.

Sec. j. The provisions of this [constitution requiring the establishment of staggered] ARTICLE PROVIDING THAT terms of offices [in existence] SHALL NOT ALL EXPIRE AT THE SAME TIME, shall be implemented at the next election for such offices by legislation providing for elections for terms of varying length, none of which shall be shorter than the basic term provided [herein] for the office.

Sec. k. [Each branch] EITHER HOUSE of the legislature [as well as] OR the governor [shall have the authority to] MAY request the opinion of the supreme court upon important questions of law upon solemn occasions[, in connection with] AS TO THE CONSTITUTIONALITY OF legislation after it [shall have] HAS been enacted into law but before its effective date. [Such opinions shall relate only to questions of constitutionality.]

Sec. l. Any elected judge of a circuit court or probate court may become a candidate in the primary election for the office of which he is [then] the incumbent[,] by filing AN AFFIDAVIT OF CANDIDACY IN THE FORM AND MANNER [a declaration of intention at such time and in such office as shall be] provided by law.

[Sec. m. Within 5 years from the date this constitution becomes effective, and subject to the limitations contained in Committee Proposal 90 and section a of Committee Proposal 96, the legislature shall establish statutory courts of limited jurisdiction inferior to the circuit court with a definition of their powers and jurisdiction, the location and number of such courts, the qualifications of the judges who shall preside therein, the method of their election and tenure of office and the amount of their salary and by what governmental units the same shall be paid.]

SEC. N. 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.

PRESIDENT NISBET: Just for your information, there are 9 amendments offered to this proposal. Mr. Danhof.

MR. DANHOF: Mr. President, members of the convention, as the president has advised, there are a number of amendments pending to the present proposal. I think it would be more apropos if we went through and took the 2 pending committee amendments, which I would ask that we consider first.

SECRETARY CHASE: Mr. Danhof, on behalf of the committee on judicial branch, offers the following amendment:

1. Amend page 2, line 2, [section d] by striking out "voluntarily or because of age"; so that the language will then read: 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.

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

**PRESIDENT NISBET:** The question is on the amendment.  
**Mr. Hoxie.**

**MR. HOXIE:** Mr. President and fellow delegates, I wonder if I might propose a question that bothers me to Mr. Brown.

**PRESIDENT NISBET:** If he cares to answer. Mr. Brown?

**MR. HOXIE:** As I read the proposal it says a former circuit judge. All the emphasis has been on the fact that he has been retired. Now, can you assume that, for instance, a circuit judge who has been retired by the people—not necessarily reached the age of retirement—would be eligible for appointment, as I understand the proposal? Now let's assume, if we may, that an appointment was made of a circuit judge, retired either by vote of the people or by age, and he was assigned to your county. Say he came from Gratiot county. Under the reading of this proposal, would it be impossible for him to be a candidate for circuit judge in Gratiot county? Where you say "the same judicial office?"

**MR. G. E. BROWN:** Mr. Hoxie, it is contemplated that it would be the same judicial office. In other words, circuit judge in the circuit in which he was serving.

**MR. HOXIE:** Mr. President, through the Chair, you mean to indicate that your interpretation of your language, "the same judicial office," that the ability for him to be elected in another circuit—he would be prohibited from being elected in that circuit where he had never served as an appointee of the court or on an assignment by the supreme court?

**MR. G. E. BROWN:** Mr. President, Mr. Hoxie, I think that we are begging the question here. As a practical matter, no judge needs to accept this appointment. The whole purpose of the amendment is to assure that someone will not have an advantage in the election by having served, for instance, as much as 2 years—which could be possible under the committee language—in a circuit, that he shall not have that advantage of having served there for 2 years and then run for election. Because if this happens, we're getting away from the very thing that we've attempted to prevent by the committee proposal, and that is to maintain judicial integrity in the initial election of judges by the electors and not to have an appointive system which is confirmed by the electors, which is the present case.

**MR. HOXIE:** Mr. President, I think Mr. Brown has answered my question, and I think the point that I've raised clearly indicates what this proposed amendment would do. I urge a no vote.

**PRESIDENT NISBET:** Mr. Ford, do you care to—

**MR. FORD:** For the reasons advanced by Mr. Danhof I would recommend voting no on this amendment and call Mr. Brown's attention to the fact that he is searching for a problem that has not historically existed in Michigan and isn't likely to in the future inasmuch as the only people who could be qualified for the assumption of these duties are disqualified from seeking office at the time that they become qualified for such an appointment.

**PRESIDENT NISBET:** The question is on the amendment offered by Mr. Brown. Mr. Brown.

**MR. G. E. BROWN:** Mr. President and members of the convention, I feel that it is incumbent upon me to answer Mr. Ford. Retirement does not mean 70 years old; it does not mean 69 years; "retirement" could mean 40 years old. It could mean any time. And so it is essential that this amendment be adopted and I urge a yes vote.

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

The amendment is not adopted.

**DELEGATES:** Division.

**PRESIDENT NISBET:** A division has been ordered. Is that demand seconded? Sufficient number up. Those in favor of the Brown 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 CASE:** On the amendment offered by Mr. Garry Brown, the yeas are 41; the nays are 73.

**PRESIDENT NISBET:** The amendment is not adopted. The Chair recognizes Mr. Blandford.

**MR. BLANDFORD:** Are there any announcements first, Mr. President?

**SECRETARY CHASE:** The committee on administration will meet ½ hour before the evening session today. Mr. Walter DeVries, chairman.

Mrs. Cushman requests the following announcement be made: the women delegates will meet with the research consultants and others interested in "sex" as used in the equal protection clause, (laughter) Tuesday at 8:00 a.m. in room A.

The committee on emerging problems will meet Tuesday at 11:30.

The committee on legislative organization will meet Tuesday morning at 8:00 o'clock for the purpose of getting a committee picture.

The committee on declaration of rights, suffrage and elections will meet in room F tomorrow at 8:00 o'clock p.m. Dr. Pollock, chairman.

The committee on emerging problems will meet Wednesday in committee room H on the third floor at 8:00 o'clock a.m.

The committee on style and drafting will meet tomorrow after the morning session.

I have the following requests: Mr. Lee Walker wishes to be excused from the evening session; Mr. Murphy and Mrs. Hatcher ask to be excused from today's session.

**PRESIDENT NISBET:** Without objection, the requests are granted.

**MR. RADKA:** Mr. Secretary, will you repeat again the room where Mrs. Cushman's meeting is going to be held? I'd like to be there. (laughter)

**PRESIDENT NISBET:** Mr. Blandford.

**MR. BLANDFORD:** Mr. President, I have been under extreme pressure to move that we recess until 10:00 o'clock but I stood firm and I move that we recess until 8:00 o'clock.

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

We are recessed until 8:00 o'clock.

[Whereupon, at 6:00 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.

[Pursuant to leave previously granted, Mr. Bentley left the chamber.]

**PRESIDENT NISBET:** We were working on **Committee Proposal 96**. We have 7 amendments yet. The secretary will read.

**SECRETARY CHASE:** Mr. Boothby offers the following amendment to Committee Proposal 96:

1. Amend page 3, line 5, [section i, paragraph 1] after "shall" by striking out "be abolished at the expiration of 5 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 5 year period, the" and inserting "continue to have all their respective powers and jurisdiction until they are abolished or their jurisdiction and powers are transferred to, or invested in, other courts and that they shall be established in accordance with this constitution. The"; so the language will then read:

The offices of circuit court commissioner and justice of the peace shall continue to have all their respective powers and jurisdiction until they are abolished or their jurisdiction and powers are transferred to, or invested in, other courts and that they shall be established in accordance with this constitution. The legislature shall establish . . . .

**PRESIDENT NISBET:** The Chair recognizes Mr. Boothby.

**MR. BOOTHBY:** Mr. President, ladies and gentlemen of the convention, apparently I have sensed that the position of this convention is to remove constitutional status for the justice of the peace. Now, this amendment which I submitted does not alter that particular policy to remove the constitutional

status for justice of the peace. This matter apparently was decided some time ago. This does, however, look into another matter which the present position of the language of the committee proposal indicates, that it is the intention of the committee to have a 5 year death penalty provision. The thing that this amendment seeks to correct is a possibility which may arise out of that 5 year death penalty. As I understand it, reading this impairment here with some of the other sections of the constitution, it is altogether possible that the legislature may come up with a very interesting situation. Within that 5 year period they may not be able to come up with a new system for inferior courts. And as I understand it, it requires a 2/3 vote of each house of the legislature to set up a new system of inferior courts. So there is a possibility developing where the inferior courts may not be set up for lack of agreement within the legislative body. Now, this amendment would provide that until the legislature has set up some new type of plan for the inferior courts that the present system would remain intact, not as a constitutional office, but as a legislative office.

I can foresee a very interesting situation taking place if this present provision remains intact and unchanged, and that is this: that under the present situation, all the statutes which are directed towards the justice of the peace courts might be considered to be null and void because the constitutional status of the justice of the peace is abolished, and even though the legislature wanted to recreate something very similar to the justice of the peace, the legislature would be required to resubmit statutes covering this whole area because of this clause which, apparently, not only knocks out the office of justice of the peace but knocks out the whole system in all the statutes which were created looking towards that particular kind of an inferior court setup. I feel that my amendment does not destroy the original intent, which is to remove constitutional status for the justice of the peace, but it does leave the justice of the peace system, it does leave the state of Michigan with an inferior court system until the legislature comes up with some other kind of plan that can be accepted by 2/3 of the members of both houses of the legislature. I urge the adoption of this amendment.

PRESIDENT NISBET: Mr. Hanna.

MR. W. F. HANNA: Mr. President, a question to Mr. Boothby.

PRESIDENT NISBET: If Mr. Boothby cares to answer.

MR. W. F. HANNA: Mr. Boothby, as I read your language, it would appear that until they abolish the office of justice of the peace, they could not change its jurisdiction or powers. I wonder if this is your intent: that if the justice of the peace system were retained, due to the inaction of the legislature, that the jurisdictional amount could not be increased or decreased or the present powers and jurisdiction of the justice of the peace could not be increased or decreased from the adoption of this constitution until it was transferred to or invested in other courts?

MR. BOOTHBY: Mr. President and Mr. Hanna, I do not believe that, even under the committee's proposal, the jurisdiction and powers of the justice of the peace can be altered except by action of the legislature. This would not change that provision in any respect. In other words, it actually is looking at the problem more directly than did the committee. It is saying—it is recognizing the fact that you cannot set up an inferior court system unless the legislature acts. This prevents a situation from developing where the legislature might fail to act because of the failure to be able to gain 2/3 vote in each house and then coming out with no inferior court system, which would be deplorable.

MR. W. F. HANNA: Mr. President, Mr. Boothby, may I pose a specific question? Could the legislature increase the dollar jurisdiction of justice courts in assumpsit cases from \$500 to \$1,000 under your proposed language?

MR. BOOTHBY: As I read my amendment, Mr. Hanna, Mr. President, the import of this particular amendment would leave to the legislature, at any time after this constitution is adopted, the power to develop any kind of inferior court system they wish and to change and alter the powers if they

so desire; because as the amendment reads, the legislature would be given the power to provide for an inferior court system and to do anything they wished within that period of time.

MR. W. F. HANNA: Mr. President, Mr. Boothby, I think, in my opinion, you have ignored my question. My question is: could an existing justice of the peace court, which is continued because the court itself is not abolished nor is its jurisdiction and power transferred or invested in any court, could the legislature change the dollar amount of that court's jurisdiction? Or have you frozen the justice court jurisdiction as it now is by statute until such time as this jurisdictional power is transferred to a different court or invested in another court?

MR. BOOTHBY: I think I see the question you have and it may call for an amendment. This amendment only provides for the power and jurisdiction to be abolished, transferred or invested in other courts and there may be some problem there that should be corrected by an additional amendment. I did not see it at first blush.

MR. W. F. HANNA: Mr. President, Mr. Boothby, it was not your intention to not let them have the present powers that the legislature now has with regard to justice courts?

MR. BOOTHBY: Mr. President, Mr. Hanna, my purpose was to leave with the legislature complete power over this particular area and the reason why the wording is as it is, I tried to keep it as close to the present wording of the proposal, to make as little change, as possible. I would welcome any amendment to correct this possible defect.

PRESIDENT NISBET: The Chair recognizes Mr. Van Dusen.

MR. VANDUSEN: Mr. President, I am advised that there are 7 pending amendments to this proposal and, of course, we have 2 important proposals remaining thereafter. In order to facilitate our consideration of these matters, Mr. Danhof and myself have consulted with the proponents of the remaining amendments to be offered to this proposal. Each of them have indicated that approximately 10 minutes will suffice. Therefore, I would move, Mr. President, that further debate on the current amendment be limited to 10 minutes and that the debate on each of the now pending amendments to this proposal be also limited to 10 minutes.

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

The motion prevails. Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, several of the questions that Delegate Hanna raised occurred in the judiciary committee and in the style and drafting committee. I'd like to point out that the proposed amendment of Delegate Boothby would eliminate the self executing feature of the proposal that the office of the justice of the peace be abolished at the expiration of 5 years. Second, the matter of freezing of jurisdiction is a significant one. I think that if you examine this language closely, there are several problems with regard to requiring that the present jurisdiction of the justices of the peace be transferred as a condition of the abolishment. There are many useful functions of the justices of the peace. There are some functions which the legislature may find desirable to reexamine and determine whether they should be transferred. The power, for instance, of counting logs in a stream. So, for fear that we freeze in an ancient jurisdiction without giving the legislature opportunity to examine this carefully and recreate as they find best under the circumstances, I urge you to vote no.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: I don't think any of the 28 justices of the peace in Wayne county have counted any logs in streams recently, but they do serve almost 400,000 people who live in townships. If Mr. Boothby would consent to it, I would like to suggest the possibility of adding, in the fourth from the bottom line of his amendment, after the word "are," the words "modified or abolished" so that the legislature would clearly have the power to increase the jurisdiction of the justice of the peace in larger townships, for example, on a local option basis or decrease it or take it away or do what it would with it.



PRESIDENT NISBET: Mr. Boothby.

MR. BOOTHBY: Mr. President, Mr. Ford, I would agree to those words. I was thinking of the word "altered" and I wondered whether we might take care of any possibility by using the words "modified and altered".

MR. FORD: It is your amendment.

MR. BOOTHBY: I would agree to that revision.

[The amendment, as revised, reads as follows:

1. Amend page 3, line 5, [section i, paragraph 1] after "shall" by striking out "be abolished at the expiration of 5 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 5 year period, the" and inserting "continue to have all their respective powers and jurisdiction until they are modified, altered or abolished or their jurisdiction and powers are transferred to, or invested in, other courts and that they shall be established in accordance with this constitution. The".]

PRESIDENT NISBET: Mr. Ford.

MR. FORD: As he has revised it, I would like to support him. I would like to partially answer what I think Bill Hanna has raised here in just what the first language that Mr. Boothby would insert would do. At the present time, there is constitutional jurisdiction in the justice courts which will no longer exist as we have put together this document up until this time, and that is contained in sections 15 and 16 of the 1908 constitution.

We have, by exclusion reports, abolished those 2 sections so that no matter what we do here, unless there is some language to preserve it, the basic jurisdiction of the justice courts would cease to exist upon the adoption of this document. However, Mr. Boothby's language now would abolish the constitutional status of this jurisdiction and leave it to the legislature to allow them to continue that which they have, enlarge it, reduce it or completely eliminate it, as the case might be; and, in fact, we would be very hopeful that in the urban areas, for example, they might take this opportunity without waiting 5 years to allow us to have a municipal court system with lawyers serving on a salary basis in lieu of the justice system that we now have, without at the same time doing damage outstate where the people might prefer to keep the system as it is now or with some modifications on it in the future.

As it is revised now, I think that the Boothby amendment complies with the argument that we have already heard here today about not tying the hands of the legislature or freezing something into the constitution that could best be handled by the legislature when it takes more time and more deliberate action in determining from time to time what is best for the state.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, I would only say this: the same matter came up in committee of the whole, the same idea was nothing more than the minority report that was presented by a minority of my committee. It was overwhelmingly rejected. We wrote in the 5 year period, after which this convention overwhelmingly adopted the Pugsley-Radka-Rajkovich amendment which, in essence, is lines 10 through 17 of this particular provision in capital letters, which was adopted and put forth by many members of this convention. To adopt the language now of Mr. Boothby would be to strike all of that on which we have made a clear expression of our opinion previously, not only in committee of the whole but in this convention.

I think we have a good article, we have a good section, we have what amounted to a compromise position in this regard with the provision offered by Judge Pugsley, Mr. Radka and Mr. Rajkovich which was adopted. We have laid out what the legislature shall do. We have told them what to do. I don't think there is any particular question on it and I would urge the rejection of the amendment.

PRESIDENT NISBET: The question is on the adoption of the amendment, as revised. Those in favor of the amendment, as revised, will say aye. Those opposed, no.

DELEGATES: Division.

PRESIDENT NISBET: A division has been requested. Is the demand seconded? It is supported. Those in favor will vote aye. Those opposed will vote no.

MR. BOOTHBY: Mr. President.

PRESIDENT NISBET: Mr. Boothby.

MR. BOOTHBY: There is some question on the wording as it was revised on the floor. I am wondering if the secretary would read it as revised.

PRESIDENT NISBET: The secretary will read the amendment.

SECRETARY CHASE: The language to be inserted now reads:

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

PRESIDENT NISBET: This is the Boothby amendment, as revised. Those in favor will vote aye. Those opposed, nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the Boothby amendment, the yeas are 38; the nays are 73.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Kuhn offers the following amendment:

1. Amend page 2, line 8, [section f] after "Any" by inserting "supreme court justice, circuit judge,"; so the language will read:

Any supreme court justice, circuit judge, judge of probate serving at the time this constitution becomes effective may serve the remainder of the term and be eligible for election to his present office regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

PRESIDENT NISBET: The Chair recognizes Mr. Kuhn.

MR. KUHN: Mr. President and members of the convention, I talked to the chairman about this and he says this is the intent of the committee, to have all these judges on the same basis. And Mr. Hutchinson was just telling me that if we put it in here, they can put it over into the schedule. This would merely say that a circuit court judge, probate judge and any supreme court justice would be able to serve out the end of their term and would make it consistent. I have no reason to object to them putting it into the schedule but I think this would make it consistent.

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President, Mr. Kuhn, it was not the intent of the committee upon the adoption of this constitution that all judges then serving in the middle of the term would have to be rerun for the office if the statute were passed. I talked with Mr. Hutchinson. He states that probably within the schedule provisions there will be a general clause in this regard, in which case your amendment would be taken care of in the schedule.

The effect of section f was to give the nonlawyer, incumbent judges of probate the right to continue in their office. It was certainly not the intent of our committee that upon the adoption of the constitution, all judges would again have to be up for reelection and start new terms. I would, therefore, at this time, see no objection to the language of Mr. Kuhn, with the idea that if style and drafting wants to place it in the schedule provisions, it can be done.

MR. KUHN: Very good. Thank you.

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

The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Mahinske and Krollkowski offer the following amendment:

1. Amend page 3, line 10, [section i, paragraph 1] after "law" by changing the period to a colon and inserting "Provided however, That the office of circuit court commissioner in counties of 300,000 or more shall continue to exercise juris-

diction beyond the 5 year limitation herein provided unless specifically abolished by the legislature.”.

**PRESIDENT NISBET:** The Chair recognizes Mr. Mahinske.

**MR. MAHINSKE:** The object of this amendment is that in the large counties, where you have a large, flourishing JP system or a large circuit court commissioner system—such as Wayne, Oakland, Macomb, possibly Genesee and Kent—that the 5 year death penalty would not be mandatory on these counties but the legislature could, as they set up a substitute system, abolish either the JP system within the county or the circuit court commissioner system within the county, or both. Now normally, in these larger counties, your circuit court commissioners are not working on a fee system and are paid on salary from the county itself, with no contributing funds from the state. In particular, in Wayne county we have a circuit court commissioner's bench that handles somewhere over 23,000 cases a year, including all types of landlord-tenancy cases, land contract cases, evictions, and so forth.

Now, with the mandatory system that we have set up in section i, at the end of 5 years at the latest, the circuit court commissioners would have to be abolished and some type of a new court system would have to take over these some 23,000 cases; or, if no provisions had been made for this, with the abolition of the JP courts at the same time, we would have an additional 23,000 cases thrown on the circuit court docket. Now, our circuit court commissioners in these large counties are current, and there is no waiting for juries and there is no backlog of cases. I am afraid that if some provision isn't made for these heavily worked areas, that we may find all these additional cases going onto the circuit court docket, where we have anywhere from a 9 to a 24 month wait for your cause to come to the head of the calendar now. I would urge the adoption of this amendment to take care of the counties at least where there is a heavy workload and they may need some additional time in the transition period from circuit court commissioner and JP to another type of court, or leave the possibility open that the legislature may provide for no change in this area.

**PRESIDENT NISBET:** The Chair recognizes Judge Pugsley.

**MR. PUGSLEY:** Mr. President and fellow delegates, I have no objection personally to this amendment. I think it might serve a useful purpose in Wayne county. I have had some correspondence from there and I appreciate the work that is being done by the circuit court commissioners in that county. I am not prepared to speak for anyone else except myself and so far as I personally am concerned, I don't oppose it.

**PRESIDENT NISBET:** Mr. Danhof.

**MR. DANHOF:** Mr. President, let me point out that this is the same thing we discussed in committee of the whole. It is trying to save something for a particular area of the state. When we write in 300,000, 500,000, 200,000 in the constitution, we put in a numerical limit. I should point this out: that all of the jurisdiction now given to the circuit court commissioners is statutory. The enabling language within the present Constitution of 1908 merely stated that the legislature might establish in the counties an office with the power of circuit judge in chambers. There is nothing self executing about it. The statute will remain on the books. It will take nothing more than an act to provide for this. I see no reason why we can't have a cohesive statement on this and apply it uniformly throughout all of the state. I doubt very much if we will let Wayne county or any of the other large counties suffer in this regard. I would therefore urge that the amendment be defeated, as it was in committee of the whole.

**PRESIDENT NISBET:** Mr. Mahinske.

**MR. MAHINSKE:** In view of Mr. Danhof's remarks, I would like to point out that we are not trying to save something for a particular area of the state. We are attempting to save a particular area of the state from something here, which is slightly different than he puts it. I think you have all received the figures from Wayne county here. I am not speaking basically for Wayne county. I am speaking for those 4 counties that have a heavy circuit court commissioners' docket that may well be thrown onto their circuit courts. And I feel that

possibly 5 years is not enough time to make the transition from the justice court and the circuit court commissioner type of operation to another form of court that is set up. And I would urge the adoption of this amendment to take care of the possibilities in these large areas where you may need more time. There is nothing to prevent the legislature from still operating within the 5 year period to abolish these courts across the board throughout the state.

**PRESIDENT NISBET:** The question is on the amendment offered by Mr. Mahinske and Mr. Krolikowski.

**MR. MAHINSKE:** Will you call for the yeas and nays on this?

**PRESIDENT NISBET:** The yeas and nays have been demanded. Is that demand supported? 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—50**

|                     |             |                 |
|---------------------|-------------|-----------------|
| Austin              | Garvin      | Perras          |
| Baginski            | Hodges      | Plank           |
| Balcer              | Jones       | Powell          |
| Binkowski           | Kelsey      | Prettie         |
| Bledsoe             | Krolikowski | Pugsley         |
| Bonisteel           | Kuhn        | Radka           |
| Boothby             | Leibrand    | Richards, L. W. |
| Brown, T. S.        | Leppien     | Sablich         |
| Buback              | Lesinski    | Sharpe          |
| Butler, Mrs.        | Liberato    | Sleder          |
| Conklin, Mrs.       | Madar       | Staffeth        |
| Dehnke              | Mahinske    | Stopczynski     |
| Dell                | Marshall    | Wilkowski       |
| Elliott, Mrs. Daisy | McAllister  | Wood            |
| Erickson            | McCauley    | Yeager          |
| Follo               | Ostrow      | Young           |
| Ford                | Perlich     |                 |

**Nays—63**

|                |               |            |
|----------------|---------------|------------|
| Allen          | Gover         | Mosier     |
| Andrus, Miss   | Gust          | Nisbet     |
| Anspach        | Habermehl     | Page       |
| Batchelor      | Hanna, W. F.  | Pollock    |
| Blandford      | Haskill       | Rajkovich  |
| Bradley        | Hatch         | Rood       |
| Brake          | Heideman      | Rush       |
| Cudlip         | Higgs         | Shackleton |
| Cushman, Mrs.  | Howes         | Shaffer    |
| Danhof         | Hubbs         | Shanahan   |
| DeVries        | Hutchinson    | Spitler    |
| Doty, Dean     | Iverson       | Staiger    |
| Doty, Donald   | Judd, Mrs.    | Stevens    |
| Durst          | Karn          | Thomson    |
| Elliott, A. G. | Kirk, S.      | Tubbs      |
| Everett        | Koeze, Mrs.   | Turner     |
| Farnsworth     | Lawrence      | Tweedie    |
| Faxon          | Martin        | Upton      |
| Figy           | McGowan, Miss | Van Dusen  |
| Finch          | McLogan       | Wanger     |
| Goebel         | Millard       | White      |

**SECRETARY CHASE:** On the adoption of the amendment offered by Messrs. Mahinske and Krolikowski, the yeas are 50; the nays are 63.

**PRESIDENT NISBET:** The amendment is not adopted. The secretary will read the next amendment.

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

1. Amend page 3, line 12, [section i, paragraph 1] after “establish” by inserting “a court or”; and in line 14, after “such” by inserting “court or”; and in line 15, after “such” by inserting “court or”; so the language then will read, beginning in line 12:

... 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 govern-

mental units the same shall be paid, shall be provided by law, subject to the limitations contained in this article.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President and fellow delegates, at the time of the first reading, I asked the question of Judge Pugsley on the floor whether or not this was within the intent of the language and my understanding was that at that time it was. What it is designed to do is merely not to require the legislature to establish a multiplicity of courts of limited jurisdiction. It is within the realm of contemplation that the legislature may establish a court differing as between smaller counties and larger counties, but rather than creating—you see, we are abolishing 2 courts and we do not want to force the legislature to establish a multiplicity of courts. On the other hand, we don't want to tie their hands the other way.

Now, since that time, I have inquired of the chairman of the committee, Mr. Danhof, and Judge Pugsley has a copy of this proposed language, and it is my understanding that it is agreeable with both of them, and there is nothing really subversive involved here. What we're trying to do is clarify the language. The way it reads would indicate that the legislature shall establish courts in the plural. Now, of course, there must necessarily be a number of divisions of any court established. We're using the words "court or courts" in the broad generic sense.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, Mr. Higgs has stated that he talked with me. I have no personal objection, but the authors of this basic proposal were Judge Pugsley and Mr. Radka. I would state that I would inquire through the Chair, if Judge Pugsley would care to comment. If he has any objection to this particular amendment, I would like to hear it. If he has none, I certainly have none.

PRESIDENT NISBET: Judge Pugsley.

MR. PUGSLEY: I have no objection to it.

PRESIDENT NISBET: The question is on the Higgs amendment. Those in favor will vote aye. Opposed, nay.

The amendment is adopted. The next amendment.

SECRETARY CHASE: Mr. Faxon and Mrs. Cushman offer the following amendment:

1. Amend page 3, [section i, paragraph 1] by striking out all of lines 12 through 17; which read:

Within such 5 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 same shall be paid, shall be provided by law, subject to the limitations contained in this article.

PRESIDENT NISBET: The Chair recognizes Mr. Faxon.

MR. FAXON: Mr. President, fellow delegates, this is the amendment that was attached in committee of the whole. It was not part of the original proposal that issued forth from the judicial committee. The language which is contained in these lines, I think, as you can see for yourself, clearly leaves everything up to the legislature. In doing so there doesn't seem to be any value in putting it in. It doesn't name any court; it doesn't locate the court; it doesn't give qualifications for justices of the court; it doesn't provide for tenure of the court; it doesn't provide for method of election of the court. It simply provides an outline of what the legislature must ultimately do anyhow. The language is vague. Furthermore, it even permits, as I read it, that the legislature could set up a judge and then order the local community to pay the judge a certain salary from its own tax sources, saying there that the "salary of the judges of such court or courts, and by what governmental units the same shall be paid. . . ." So it seems possible that you could have the legislature prescribing for a judge in a district and paying him a salary in excess of what the community can afford and what had been the customary rate in that area.

In addition to this, I think that we already have provided for the legislature to establish courts in a previous proposal which we have already approved. With this in mind, I think

the question could be clearly left with the legislature. The language doesn't seem to say anything specific except to provide that the legislature shall do it. Perhaps if the people who were for this could send a memorial to the legislature or put in the schedule that the legislature shall do something to provide for replacement for such courts, it would save the constitution from being cluttered up with excess language which could just as well be left to the legislature to start with. I ask you to give this your favorable consideration.

PRESIDENT NISBET: The Chair recognizes Mr. Farnsworth.

MR. FARNSWORTH: Mr. President and members of the convention, I just want to agree with everything that Jack Faxon has said about this particular section. And I want to again remind you that in committee of the whole we, from outstate Michigan, asked specifically that you put this in to give our people reassurance that they would have a court system at the local level that would supplant the justice of the peace system which you are taking away from us. We urge you, strongly, to defeat the amendment.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: I think it is well known to everybody in the convention how this managed to get in in the first place. I think you should be made aware of what we just did a few minutes ago. The judiciary committee had presented to it, as an alternative to the system of municipal courts and justice courts that we now have, a so called county court. This means that a single court with several divisions may have traveling judges elected in the city—for example, if you have one big city in a county—who travel out into the other communities and sit one day or week or something at a time. This was rejected very emphatically in the judiciary committee and was rejected as a concept on this floor. Mr. Higgs has now very skillfully—first in committee of the whole on first reading—got this thing moved around to the point where it opens the door for a county court system; and now just a few minutes ago with his amendment he has substituted for a "system of courts," a "court or courts," and now it makes it very clear that we contemplate a county court to replace all of the municipal courts and all of the justice courts. And if you believe that this is what you want, that the present system is not adequate and that local communities should not have a local court system with judges elected from the residents of the community in which they sit then I suggest that you vote no on the Faxon amendment and allow this to stand as it is now. But as it is amended I feel that I have to support the Faxon amendment to strike it, because this does what we all agreed at one stage of this convention we didn't want to do.

I want to caution you once more, as I did before: this has been offered by some of the proponents of the language—before it was modified and chopped up—as a guarantee, as Mr. Farnsworth is willing to buy it, but I want to tell you, Jim, that you're buying a pig in a poke. You're not getting what you think you're getting. You're getting what you have told me, on numerous occasions, you would be opposed to. You're getting the very thing that can take away from the people in your community the absolute right to have a court system with a locally elected judge from amongst the residents of your own community; and you're walking right into it and we've done it step by step. And Mr. Higgs has now succeeded in doing what he was never able to do in the judiciary committee: getting this convention to adopt a county court system.

PRESIDENT NISBET: Judge Dehnke.

MR. DEHNKE: Mr. President and fellow delegates, I am unable to read into this language that Mr. Higgs has put into this section any such interpretation as my neighbor, Mr. Ford, here, is trying to put into it. These 5 or 6 lines represent the fruitage of days and weeks of labor and consultation to find something by which the smaller communities could supply their needs for the type of courts that need not be manned by lawyers and are adapted to their local situations. Without this language in it, many of us would not feel ourselves at liberty to support this judicial proposal as an entirety. And I hope the amendment is not adopted.

PRESIDENT NISBET: Mr. Radka.

MR. RADKA: Judge Dehnke has said practically the same thing that I was going to say, and more ably than I could say it. There was a great deal of meaning in these 5 lines, Delegate Faxon. In fact, there was a lot of sweat. I don't believe there was any blood spent. But there was a definite purpose in mind and by observing you in your chair now, I think you are fully aware of what purpose the proponents of these 5 lines were trying to accomplish. And they were accomplished and they were passed on first reading. And I would only urge all of you to defeat the Faxon amendment and allow these simple little 5 lines which give the smaller communities and smaller areas outside of the metropolitan areas a little more light in their judicial system.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, I rise only to state that I agree fully with what Judge Dehnke said. My distinguished second vice chairman, I think, has tried to drag, as we have said before, some red herrings through this language. I urge the defeat of the amendment.

PRESIDENT NISBET: Mrs. Cushman.

MRS. CUSHMAN: I would like to ask Mr. Radka a question, through the Chair, if I may.

PRESIDENT NISBET: If he cares to answer. Mr. Radka?

MRS. CUSHMAN: Would Mr. Radka explain for us a little bit more fully about the deep seated purposes that he says lie behind these 5 lines?

MR. RADKA: I do care to answer. Very simply, the judiciary article originally required that all judges be attorneys. It was pointed out that in certain areas, all judges could not be attorneys. It was obvious that the judiciary committee could not get sufficient support in their committee to establish a county court, and an attempt was made to allow some sort of life blood for a judicial system in this state where a justice or court—whatever you may call them—might not have to be an attorney. So what was done, the amendment was offered which, in effect, said that all judges have to be attorneys in courts of record. The legislature is left with the responsibility to define courts of record. And then when we spelled the death knell to the justice of the peace courts, as we now know them, we went a little further to spell out what they could do in creating courts not of record. Does that answer your question, Mrs. Cushman?

MRS. CUSHMAN: Yes. Thank you very much. That's exactly what I had in mind in cosponsoring this amendment with Mr. Faxon. I am still of the opinion that judges, whether they are justices of the peace or judges of courts of record, ought to be attorneys. Thank you.

PRESIDENT NISBET: The question is on the amendment. Those in favor will say aye.

MRS. CUSHMAN: I ask for a division.

PRESIDENT NISBET: A division has been demanded. Is the demand seconded? Sufficient number up. Those in favor of the Faxon-Cushman 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.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Faxon and Mrs. Cushman, the yeas are 22; the nays are 93.

PRESIDENT NISBET: The amendment is not adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Ford offers the following amendment:

1. Amend page 3, line 17, [section i, paragraph 1] after "article" by changing the period to a colon and inserting "Provided however, That any such court system shall provide for the election of one or more local judges in each city or township, as provided by local ordinance, charter or resolution of the local legislative body."

PRESIDENT NISBET: The Chair recognizes Mr. Ford.

MR. FORD: Mr. President, I am not going to get into the argument about what this might do in Keweenaw peninsula, but I know what it does in Wayne county. It guarantees that the present system of municipal courts that we have will be retained if the people in the community want to retain it.

That is, if the people in the city of Dearborn, who now have a municipal judge and an associate municipal judge on a full-time basis wish to continue that, they cannot have imposed upon them by the legislature a traveling judge elected in another community to come in and sit. If the people in Highland Park want the present system that they have, they can retain it. Now, if Mr. Farnsworth and the others who believe that this language does in fact give them the right to continue a local court system at the local level, then this language will make it very clear that it is the intention of this convention to retain at the local level the right to have a court of limited jurisdiction elected from amongst the residents of the community that the court serves.

PRESIDENT NISBET: Mr. Farnsworth.

MR. FARNSWORTH: Mr. President, members of the convention, I have to apologize for taking up a little of your time, but I only want to point out that in my county of Allegan, when you talk about one or more from every township, you are talking about 24 judges. Now, we happen to be so good in Allegan county that we just plain don't need 24 judges. I'm against the amendment.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, I think the problems you get into are very obvious on the face of the amendment. You would be freezing in something created by statute under the present constitution and the municipal court act, and we do not want to do that. It would create judges in townships that have 14 or 15 people. Certainly, the legislature is the best judge as to the size of the township or the city that should have a single judge. I'm sure they'll be elected. We provided for that all over. I urge the rejection of the amendment.

MR. FORD: Mr. President.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: Now it is Mr. Danhof who has dragged out the smelly red herring. This does not say that the legislature must establish a court in every township in the state. What it says is that a township that wants to have a court can have a court. Now, we have already provided that there will be no fee system. This means that when the electors in a township, through their elected officials, determine to have a local court they are at the same time determining that they are willing to absorb the cost of that local court. The language above gives the legislature the right to set the amount of compensation, and all the legislature has to do is set the amount of compensation that is reasonable and it is inconceivable that a 36 member township is going to hire a full time judge to sit in its township. I don't contemplate that we would have any more than we have at the present time.

It should be made clear, because of something that was asked over here: that at the present time, is there any change in the proposed document that would change this? Townships do not keep any of the money that is collected by their court system. Home rule cities do; and to some home rule cities it represents a substantial part of the cost, not only of administering their court but of taking care of the general problem of police protection for their city. You can glance very quickly at some of them. I believe Glenn Allen told me that in his city of Kalamazoo, it ran something over \$100,000 a year. Now, all we're saying is that if Kalamazoo wants to continue to operate its own court, it should have the right to do so. But it would be up to the people of Kalamazoo to provide in their city charter for the court. The legislature cannot impose a court on any municipality that does not want to have one.

PRESIDENT NISBET: The question is on the adoption of the amendment. Mr. Madar.

MR. MADAR: Mr. President, I know that the amendment is on the board, but would the Chair please have the secretary read that so that Mr. Farnsworth would understand its meaning. (laughter)

PRESIDENT NISBET: The secretary will read the amendment.

SECRETARY CHASE: Mr. Ford has offered the following amendment:

[The amendment was again read by the secretary. For text, see above, page 2701.]

**PRESIDENT NISBET:** The question is on the amendment. Those in favor will say aye. Opposed, nay.

The amendment is not adopted.

**DELEGATES:** Division.

**PRESIDENT NISBET:** A division has been demanded. Is the demand seconded? Sufficient number. 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 tally the vote.

**SECRETARY CHASE:** On the adoption of the amendment offered by Mr. Ford, the yeas are 41; the nays are 74.

**PRESIDENT NISBET:** The amendment is not adopted. There is one more amendment. The secretary will read.

**SECRETARY CHASE:** Messrs. Garvin, Ford and Krolikowski offer the following amendment:

1. Amend page 3, line 17, [section 1, paragraph 1] after "article" by inserting a comma and "except however, any county may, on approval of the majority of electors voting thereon, retain the office of the circuit court commissioner on a salary basis paid by the county".

**PRESIDENT NISBET:** The Chair recognizes Mr. Garvin.

**MR. GARVIN:** Mr. President and delegates, this is a matter in reference to the circuit court commissioners, as you can see. A short while ago, there was another amendment somewhat similar to this, but not quite. This amendment is for the purpose of the counties that want a circuit court commissioner being able to retain them. I am not certain how many counties have the circuit court commissioners on a salary basis, but this also provides for a salary basis if they be retained. "... any county may, on approval of the majority of the electors voting thereon, retain the office of the circuit court commissioner on a salary basis and paid by the county." This amendment requires approval of the voters before a circuit court commissioner office is retained, and it also provides that no salary is attached outside of that county.

The reason this is offered is because, of course, one of the large counties, the same, Wayne, has 4 circuit court commissioners and all of them are attorneys. They have 22 full time employees. Last year, as pointed out by Mr. Mahinske, they handled 23,000 cases. Of those, 18,000 were landlord and tenant cases and almost 3,000, land contract cases. If this office is not retained in a county of that many million people, you will be in a situation that the circuit court and all the courts of Wayne county are in now. That is, there will be that much more work piled onto the circuit court or some other court if the circuit court commissioner is abolished in Wayne county.

Now, Mr. Danhof, in answer, did state, when Mr. Mahinske's amendment was up, that the legislature could take care of this. But I submit, from the way that I read the proposal, that it cannot do it because the first sentence of section 1 states, "The offices of circuit court commissioner and justice of the peace shall be abolished." And this amendment is so that any county may have a circuit court commissioner if they pay his salary. And as far as it being a lawyer is concerned, or an attorney, that is taken care of elsewhere. As far as fees are concerned, this will not be on a fee basis but strictly on a salary basis, and it is up to the voters to approve it before it has gone into effect. I recommend the adoption of this amendment.

**PRESIDENT NISBET:** The Chair recognizes Mr. Higgs.

**MR. HIGGS:** Mr. President and fellow delegates, again, this is a matter that we went into in committee and touched upon in debate in committee of the whole. The problem here is, again, trying to legislate in the constitution. I would favor that you reject this amendment for the reason that it was never contemplated that the duties of the office be abolished. The provision abolishing the office is covered by the Pugsley amendment requiring the legislature to create another court or courts of limited jurisdiction which will assume the responsibilities of the office of circuit court commissioner. Now, it doesn't make too much difference by what name you call it. I think that the problem created here is that if you permit

one county to retain the office as it is now constituted, and abolish it in other counties, you have destroyed any uniformity in the court system. In other words, we should, as lawyers and as people, be able to look to one of the levels of the court system as the proper court to go to in order to foreclose a land contract, for instance. We already have, in Wayne county, several special courts which are peculiar to that county, and this would only create another situation, perhaps, of a special court in that county and freeze it into the constitution. I would suggest that this would destroy the possibility of creating a court of limited jurisdiction to assume these duties more or less uniformly as to function, although not necessarily as to other requirements of the office which are incorporated in the Pugsley amendment so that it can be adapted to the various counties, depending on their size. There are technical problems involved here. I would urge you to vote no.

**PRESIDENT NISBET:** Mr. Mahinske.

**MR. MAHINSKE:** I rise to support the Garvin-Ford-Krolikowski amendment in that it goes just slightly further than my own amendment, which would limit this type of activity to counties of 300,000 or over. This amendment here simply lets the decision, in the last analysis, rest with the voters of the area involved. Now, I think we are holding too fast to this uniformity rule here. Uniformity doesn't mean what is good in one part of the state is good in another part of the state. We do have individual problems throughout the state in this particular area and I feel that it should be left up to the individual areas involved. Now, what this amendment would do, or could do, it could bring about the situation, in a county where you have a large volume of circuit court commissioner work being done, that that system would be retained and those judges would be retained; the entire administrative facility in each county would be retained.

Under the so called Pugsley amendment to section 1, it is mandatory that the office be abolished or that at least the title be abolished and another system set up. Now, what would this possibly do with the existing administrative facility and the commissioners in those areas? It may not necessarily put these men over 70 eligible to run for the newly created office, but possibly may put these people right out in the cold and the whole office as newly created would be open to any and all candidates with a good possibility that experienced people would not be put back into this facility or the experienced commissioners would not be elected to the position. We would have a very good possibility of our experienced circuit court commissioners not being on the bench and handling problems that they have been handling for years, but having novices in this area doing this work. By the same token, this amendment calls for the proposition that the county that retains this system will pay for the system so you will have no contributing amount coming from outside of the county itself, so that if the people want to retain their circuit court commissioner system, they retain it at their own expense and the expense of no other people within the state. And I would be in sympathy with the amendment and I would suggest the adoption of the amendment.

**PRESIDENT NISBET:** Mr. Krolikowski.

**MR. KROLIKOWSKI:** Mr. President, at the outset, I should like to state that I regard the objections raised by Delegate Higgs as being fanciful and without merit. The only difficulty that can properly be contemplated from Delegate Higgs is that this amendment will conflict with the county court system that he has now foisted upon this convention, which, incidentally, was rejected in the committee on judiciary and the committee on style and drafting.

But with respect to the merits of this proposition, I should like to point out that in Wayne county we have a peculiar problem and it is one that can only be consistently solved by the circuit court commissioners. Now, the judiciary committee, in imposing this death penalty on the circuit court commissioners, was unduly influenced by the absence of judicial activity on the part of circuit court commissioners in the outstate areas. Now, the reasoning that they have adopted is in no wise applicable to Wayne county. I believe that this



provision is essential to protect the property interests in the county of Wayne.

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, I assume the time is just about up. This is, Mr. Mahinske stated, circuit court commissioners plan number 2. We have been through it all before. I urge the defeat of the amendment.

PRESIDENT NISBET: The question is on the amendment.

MR. MAHINSKE: Mr. President, can we have a division vote on this, not a roll call?

PRESIDENT NISBET: A division has been asked for. Is the demand seconded? Sufficient number up. We are voting on the amendment of Messrs. Garvin, Ford and Krolikowski. 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. Garvin, Ford and Krolikowski, the yeas are 44; the nays are 64.

PRESIDENT NISBET: The amendment is not adopted. The next amendment.

SECRETARY CHASE: Messrs. Danhof and Ford offer the following amendment:

1. Amend page 4, following line 21, by inserting a new section to read as follows:

"Sec. o. 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."

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Mr. President, members of the convention, some time back, we had an exclusion report to strike the provision in the 1908 constitution which made the supreme court judges, the circuit judges and the justices of the peace conservators of the peace within their respective jurisdiction. I might state at the time we considered this matter, none of the attorneys nor the circuit judges serving on my committee could see any particular advantage to the section, nor did research indicate that there was any reason that it be retained. The governor's advisory committee likewise recommended its removal. But we received a letter from Detroit from Circuit Judge Joseph Sullivan in which he brought to our attention a case involving the validity of the one man grand jury system in the state of Michigan. In this particular case, the question was on the validity of the one man grand jury and Justice Butzel, writing the majority opinion of the court, pointed out the difference between Michigan and New York, and the reason why Michigan could sustain a one man grand jury system and why New York could not. And one of the items which Justice Butzel referred to constantly in about 3 pages of his opinion was the fact that circuit judges by the Constitution of 1908 were authorized to be conservators of the peace and that their duties and functions sitting as a grand jury would be within this particular section. Now, the odd part of it is that he went on to state that even in spite of this provision, he did not feel that sitting as a one man grand jury was a non judicial function. But in going over it with Mr. Joiner and other members of the staff, and in talking with Mr. Ford, we came to this conclusion: that we should not endanger the one man grand jury system; that if it is to be abolished, it should be abolished by the agency and the body which created the one man grand jury system, namely, the legislature, and that we would not be worried if Justice Butzel had not spent approximately 3 pages of the opinion pointing out that Michigan could have a one man grand jury system while New York could not because we had this provision making the judges conservators of the peace.

Now, we have amended it slightly to read supreme court, court of appeals and circuit judges and other judges as provided by law, so that the legislature, if it deems, in its wisdom, to have the judges of courts of limited jurisdiction be conservators of the peace, it can so do. The committee considered this at the time that it was brought before the committee. We had about 14 people. We got 10 votes in favor. Eleven are needed on a committee proposal. I did not get the 11. However, Mr.

Ford was absent. He joined with me in this particular amendment. We would urge the adoption thereof.

PRESIDENT NISBET: The convention will be in order. Mr. Radka.

MR. RADKA: I would like to ask a question of Mr. Danhof, through the Chair, if I might.

PRESIDENT NISBET: Mr. Danhof.

MR. RADKA: Would you consider, Mr. Danhof, that the word "judges" might conceivably include a layman who would be acting as a judge in some capacity, for instance, a lame duck judge of probate?

MR. DANHOF: Mr. Radka, it could not be a judge of probate. We have specifically eliminated them. But I think it is possible that in courts of limited jurisdiction, which is what we so add, that a layman could be designated as a conservator of the peace, the same way as a justice of the peace was under the old constitution. That was our intent.

MR. RADKA: That answers my question. Thank you.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: I would like to redirect the same question to Mr. Danhof. Under your phrase here "and other judges," are you saying that a lay probate judge is not a judge?

PRESIDENT NISBET: Mr. Danhof.

MR. DANHOF: Of course not, Mr. Mahinske. All we point out is that these 3 categories are conservators of the peace. If the legislature wants to add others, let them go ahead. That is specifically it. It could be a layman if the legislature so designates.

MR. MAHINSKE: If the legislature would designate those benches which can be occupied by lay people?

MR. DANHOF: Yes.

MR. MAHINSKE: Then your answer would be yes, to Mr. Radka?

MR. DANHOF: Yes. I said yes.

MR. MAHINSKE: Thank you.

PRESIDENT NISBET: The question is on the adoption of the amendment. Mr. Gover.

MR. GOVER: Mr. President, could we have the secretary read it again? This side is so blurred we can't read it here.

PRESIDENT NISBET: The secretary will read.

SECRETARY CHASE: The Danhof-Ford amendment:

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

PRESIDENT NISBET: Mr. Ford.

MR. FORD: If you want to look at the 1908 constitution, the language, almost identical to that which we are proposing, is in article VII, section 18. Now, we on the judiciary committee, at the time that we considered this section, were at a loss to discover what a conservator of the peace was. None of us had had any experience with this language and we were unable in the time that we had to consider it, to discover its true meaning, and it wasn't until a circuit judge in Wayne county who was a former chief assistant to the attorney general, called to our attention the Michigan supreme court decision that we discovered that we may have inadvertently made it possible to hold a statutory enactment unconstitutional.

Now, I don't hold any brief one way or another on this question of giving legitimate status to the one man grand jury. There certainly is a great deal of difference of opinion as to whether this is good or not. But if the legislature is to abolish the one man grand jury, then it should surely replace it in our judicial system with something else to do the job. In any event, it was the feeling of Mr. Danhof and I that it was not the intention of either the committee or the convention to inadvertently abolish the one man grand jury. If there is feeling in the convention for its abolition, this should be done by a straight out action so that there is no question in the future as to our intent.

The language, if you notice, in section 18 of the present constitution says, "Justices of the supreme court, circuit judges and justices of the peace shall be conservators of the peace



*Following is statement explaining abstention from voting submitted by Mrs. Cushman:*

I am not prepared to vote on an issue which arose for the first time this evening and which is of great importance.

We're right back to where we were an hour ago. The question is on the adoption of Committee Proposal 96, as amended. Can the board be cleared? Those in favor of adopting Committee Proposal 96 will vote aye. Those opposed will vote nay.

MR. MAHINSKE: Mr. President.

PRESIDENT NISBET: Mr. Mahinske.

MR. MAHINSKE: For the reasons that I outlined before, I have one or two objections to this proposal, but I agree with the majority of it. But I feel that I am not going to put myself in a position as to voting against the reservations or for the reservations that I have. For these reasons, I wish to abstain from voting on the committee proposal.

PRESIDENT NISBET: Mr. Mahinske abstains. Mr. Marshall.

MR. MARSHALL: Mr. President, I wish to abstain also.

MR. MADAR: Mr. President.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: I wish to abstain from voting on this particular proposal. I can't see how I can vote on a proposal that mixes up half a dozen things which don't mean anything, which ought to be thrown out completely.

PRESIDENT NISBET: Have you all voted?

MR. FORD: Mr. President.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: It isn't easy, but I'm going to have to abstain after many months of work on the judiciary article. And I'd like to reserve the right to submit a detailed statement for the record at a later date.

PRESIDENT NISBET: You may do that. Miss Donnelly.

MISS DONNELLY: For the reason that I cannot support the entire proposal, though I am a member of the committee and supported it originally when it came out, I now wish to abstain.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I announce my abstention.

PRESIDENT NISBET: Mrs. Elliott, Mr. Buback, Miss Hart, Mr. Stopczynski —

MR. BALCER: I wish to abstain.

PRESIDENT NISBET: — Mr. Wilkowski, Mr. Balcer, Mr. T. S. Brown, Mr. Lawrence, Mr. Baginski, Mr. Faxon, Mr. Bledsoe, and Mr. Garvin.

Mr. Perras.

MR. PERRAS: Mr. President, I am voting no. I feel it is my privilege. I am not going to make any excuses for it. (laughter)

PRESIDENT NISBET: Have you all voted? If so, the secretary will lock the machine and record the vote.

*The roll was called and the delegates voted as follows:*

Yeas — 89

|               |               |                 |
|---------------|---------------|-----------------|
| Allen         | Hannah, J. A. | Pugsley         |
| Andrus, Miss  | Haskill       | Radka           |
| Batchelor     | Hatch         | Rajkovich       |
| Beaman        | Heideman      | Richards, J. B. |
| Blandford     | Higgs         | Richards, L. W. |
| Bonisteel     | Howes         | Romney          |
| Bradley       | Hoxie         | Rood            |
| Brake         | Hubbs         | Rush            |
| Brown, G. E.  | Hutchinson    | Seyferth        |
| Butler, Mrs.  | Iverson       | Shackleton      |
| Conklin, Mrs. | Judd, Mrs.    | Shaffer         |
| Cudlip        | Karn          | Shanahan        |
| Cushman, Mrs. | King          | Sharpe          |
| Danhof        | Kirk, S.      | Sleder          |
| Dehnke        | Koeze, Mrs.   | Spitler         |
| Dell          | Kuhn          | Stafseth        |
| DeVries       | Lebrand       | Staiger         |
| Doty, Dean    | Leppien       | Stevens         |
| Doty, Donald  | Martin        | Thomson         |
| Durst         | McAllister    | Tubbs           |

|                |               |            |
|----------------|---------------|------------|
| Elliott, A. G. | McCauley      | Turner     |
| Everett        | McGowan, Miss | Tweedie    |
| Farnsworth     | McLogan       | Upton      |
| Figy           | Millard       | Van Dusen  |
| Gadola         | Mosier        | Wanger     |
| Goebel         | Nisbet        | White      |
| Gover          | Page          | Wood       |
| Gust           | Pollock       | Woolfenden |
| Habermehl      | Powell        | Yeager     |
| Hanna, W. F.   | Prettie       |            |

Nays — 14

|           |            |         |
|-----------|------------|---------|
| Barthwell | Kelsey     | Perlich |
| Binkowski | Krolkowski | Perras  |
| Finch     | Lesinski   | Sablich |
| Hodges    | Liberato   | Young   |
| Jones     | Ostrow     |         |

SECRETARY CHASE: On the passage of Committee Proposal 96, the yeas are 89; the nays are 14.

PRESIDENT NISBET: Committee Proposal 96, as amended, is passed. It is referred to the committee on style and drafting.

*Following is Committee Proposal 96 as amended and rereferred to the committee on style and drafting:*

Sec. a. 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 have a common seal. Except as otherwise authorized by this constitution, justices and judges of the courts of record of this state shall be 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. a<sup>1</sup>. 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. b. Whenever a judge removes his domicile beyond the limits of the territory from which he was elected, he shall be deemed to have vacated his office.

Sec. c. 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. d. A vacancy in the elective office of a judge of any court of record shall be filled at a general or special election 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.

Sec. e. 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. f. Any supreme court justice, circuit judge, judge of probate serving at the time this constitution becomes effective may serve the remainder of the term and be eligible 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. g. 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 courts 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 additional salary as may be determined from time to time by the board of supervisors of the county. In any county where such additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

Sec. h. For reasonable cause, which is not sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of 2/3 of the members elected to and serving in each house of the legislature. The cause for removal shall be stated at length in such resolution.

Sec. i. The offices of circuit court commissioner and justice of the peace shall be abolished at the expiration of 5 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 5 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 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. j. The provisions of this article providing that terms of offices shall not all expire at the same time, shall be implemented at the next election for such offices by legislation providing for elections for terms of varying length, none of which shall be shorter than the basic term provided for the office.

Sec. k. Either house of the legislature or the governor may request the opinion of the supreme court upon 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.

Sec. l. Any elected judge of a 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 by law.

Sec. n. 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. o. 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.

**SECRETARY CHASE:** Committee Proposal 95, A proposal pertaining to appeals from administrative tribunals. Adds a new section to article VII.

*Following is Committee Proposal 95 as reported by the committee on style and drafting and read by the secretary. (For text as referred to said committee, see above, page 1487.):*

Sec. a. All final decisions, findings, rulings and orders of any administrative officer or body existing under the constitution or by law, which are judicial or quasi judicial and affect private rights, privileges or licenses, shall be subject to direct review by the courts as shall be provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law, and, in cases in which a hearing is required, whether the same are supported by reliable, probative, and substantial evidence on the whole record.

**PRESIDENT NISBET:** Mr. Van Dusen.

**MR. VAN DUSEN:** Mr. President, I am advised that there are 5 amendments pending to Committee Proposal 95, most of which I think were offered and debated fully in committee of the whole. Therefore, I would move that debate on each of these amendments be limited 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.

**DELEGATES:** Division.

**PRESIDENT NISBET:** A division has been demanded. Is the demand supported? Sufficient number up. Those in favor of Mr. Van Dusen's motion to limit debate to 10 minutes will vote aye. Those opposed will vote nay.

**MR. VAN DUSEN:** Mr. President, I think it ought to be clear that my motion is 10 minutes on each of the 5 amendments.

**PRESIDENT NISBET:** Ten minutes on each amendment. Have you all voted? If so, the secretary will lock the machine and tally the vote.

**SECRETARY CHASE:** On the motion of Mr. Van Dusen to limit debate on each of the pending amendments to Committee Proposal 95 to 10 minutes, the yeas are 81; the nays are 29.

The motion prevails.

**MR. A. G. ELLIOTT:** Mr. President, point of information. **PRESIDENT NISBET:** Mr. Elliott.

**MR. A. G. ELLIOTT:** Mr. President, the thing that concerns me is, how do we make reasonably sure that there is a fair expression in this 10 minutes per each amendment for both sides of the issue? If the proponent of the amendment gets up and speaks for 9½ minutes on his amendment, it doesn't leave any time for the opponents.

**PRESIDENT NISBET:** The Chair might say, Mr. Elliott, that on only one occasion have we ever used up the time. Normally, the delegates who speak are cognizant of the fact and they pace themselves. Mr. Madar.

**MR. MADAR:** I'd like to move at this time that the judicial committee be given 2 minutes to explain their proposal. Let's not waste any time.

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

The motion does not prevail. Mr. Bledsoe.

**MR. BLEDSOE:** Mr. President, may I speak in opposition to that motion?

**PRESIDENT NISBET:** The motion did not prevail.

**DELEGATES:** Division.

**PRESIDENT NISBET:** Division has been requested. Is the demand seconded? Not sufficient number up. Mr. Danhof.

**MR. DANHOF:** Mr. President, members of the convention, there are several amendments pending. I think it best we get on with the first amendment. During that time the debate will, I am sure, take care of all of the questions you have. There has been no change as this matter was reported from the committee of the whole and the convention to the committee on style and drafting. The judicial committee met, made no recommendations for any amendments thereto. All the other amendments are individual and will be handled at that time.

**PRESIDENT NISBET:** The first amendment.

**SECRETARY CHASE:** Messrs. Ford, Garvin, Downs, Marshall and Hodges offer the following amendment:

1. Amend page 1 by striking out the entire proposal.

**PRESIDENT NISBET:** The Chair recognizes Mr. Ford.

**MR. FORD:** Mr. President, members of the convention, if you recall, we spent a considerable amount of time on this in committee of the whole, when it was before us on first reading and, subsequent to its adoption, we got a tremendous amount of reaction from throughout the state from people who are directly involved in the field of administrative law. We tried in numerous ways to patch this up or correct it and make it workable, and some of us who have tried to work on it find that the more you work with it, the more difficult it becomes.

Our research department has submitted—and I think most of the delegates have had an opportunity to see—a considerable amount of research material, some material presented to us by so called experts in the field of administrative law from the major universities in the state and from others in this field indicating that the proposal, as we have passed it, opens up entire new vistas of litigation that could have far felt effects not contemplated by anyone at the outset. As a matter of fact, one of the authorities—and I believe it was Professor Kauper—indicated there was no way to predict

**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**

| Sec. | Proposal                                                           |
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| 22.  | Treason; definition, evidence ..... 15-21                          |
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**Article I****Declaration of Rights**

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of race, COLOR, religion, sex or national origin. The legislature shall implement this section by appropriate legislation. This SECTION shall not be construed to [prevent] PROHIBIT reasonable [classification] LEGISLATION for the protection of women.

Sec. 3. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances.

Sec. 4. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Sec. 5. Every person may freely speak, write, express[,] and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be [passed] ENACTED to restrain or abridge the liberty of speech or of the press.

Sec. 6. Every person has a right to keep and bear arms for the defense of himself and the state.

Sec. 7. The military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 8. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sec. 9. Neither slavery, nor involuntary servitude unless for the punishment of crime, shall

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

ever be tolerated in this state.

Sec. 10. No bill of attainder, ex post facto law or law impairing the obligation of contract shall be ENACTED [passed].

Sec. 11. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation. The provisions of this section shall not be construed to bar from evidence in any criminal proceeding[,] any narcotic drug, [any] firearm, bomb, explosive[,] or any other dangerous weapon, seized by A [any] peace officer outside the curtilage of any dwelling house in this state.

Sec. 12. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

Sec. 13. [Any] A suitor in any court of this state [shall have] HAS the right to prosecute or defend his suit, either in his own proper person or by an attorney.

Sec. 14. The right of trial by jury shall remain, but shall be [deemed to be] waived in all civil cases unless demanded by one of the parties in THE [such] manner [as shall be] prescribed by law. In all civil [actions in circuit courts] CASES TRIED BY 12 JURORS a verdict shall be received when 10 jurors [shall] agree.

Sec. 15. No person shall be subject for the same offense to be twice put in jeopardy. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

Sec. 16. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

Sec. 18. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sec. 19. In all prosecutions for libels the truth may be given in evidence to the jury; and, if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

Sec. 20. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of

less than 12 jurors in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; to have an appeal as a matter of right; and in courts of record, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

Sec. 21. No person shall be imprisoned for debt arising out of[,] or founded on contract, express or implied, except in cases of fraud or breach of trust.

Sec. 22. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of [2] TWO witnesses to the same overt act[,] or on confession in open court.

Sec. 23. The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

## ARTICLE II ELECTIONS

| Sec.                                                         | Com.<br>Proposal |
|--------------------------------------------------------------|------------------|
| 1. Qualifications .....                                      | 58a              |
| 2. Legislature may exclude certain persons from voting ..... | 58b              |
| 3. Presidential electors, residence ....                     | 58c              |
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| 5. Elections, Time .....                                     | 58e              |
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| 7. Board of Canvassers .....                                 | 58h              |
| 8. Recall .....                                              | 58g              |
| 9. Initiative and Referendum .....                           | 118b             |

## Article II Elections

Sec. 1. Every citizen of the United States who has attained the age of 21 years, who has resided in this state [6] SIX months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

Sec. 2. The legislature may by law exclude persons from voting because of mental incompetence[,] or commitment to a jail or penal institution.

Sec. 3. For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than [6] SIX months and may waive residence requirements [of] FOR FORMER citizens of this state who have

1 removed [t]herefrom. The legislature [may pro-  
2 vide the manner of voting by such persons but]  
3 shall not permit voting by any [such] person who  
4 meets the voting residence requirements of the  
5 state to which he has removed.

6 Sec. 4. The legislature shall enact laws to reg-  
7 ulate the time, place [,] and manner of all nom-  
8 inations and elections, except as otherwise pro-  
9 vided in this constitution or in the constitution  
10 and laws of the United States. The legislature  
11 shall enact laws to preserve the purity of elec-  
12 tions, to preserve the secrecy of the ballot, to  
13 guard against abuses of the elective franchise,  
14 and to provide for a system of voter registration  
15 and absentee voting. No law shall be enacted  
16 which permits a candidate in any partisan pri-  
17 mary or partisan election to have a ballot desig-  
18 nation except when required for identification  
19 of [persons who are] candidates for the same  
20 office WHO [and] have the same or similar sur-  
21 names.

22 Sec. 5. Except for special elections to fill va-  
23 cancies, OR AS OTHERWISE PROVIDED IN  
24 THIS CONSTITUTION, all elections for national,  
25 state, county and township offices shall be held on  
26 the first Tuesday after the first Monday in Novem-  
27 ber in each even-numbered year[,] or on such  
28 other date as MEMBERS OF THE CONGRESS  
29 OF THE UNITED STATES ARE REGULARLY  
30 ELECTED [may hereafter be provided by the  
31 Constitution of the United States or by congress  
32 for election of members thereof].

33 Sec. 6. Whenever any question is REQUIRED  
34 TO BE submitted BY A POLITICAL SUBDIVI-  
35 SION to [a vote of] the electors which involves  
36 THE INCREASE OF ANY AD VALOREM TAX  
37 RATE LIMITATION FOR A PERIOD OF MORE  
38 THAN FIVE YEARS, the direct expenditure  
39 of public money, OR the issue of bonds, [or the  
40 increase of any ad valorem tax rate for a period  
41 of more than 5 years,] only [persons having the  
42 qualifications of] electors in, and who have prop-  
43 erty assessed for any ad valorem taxes in, any  
44 part of the district or territory to be affected  
45 by the result of such election or the lawful hus-  
46 bands or wives of such persons shall be entitled  
47 to vote thereon. All ELECTORS IN THE DIS-  
48 TRICT OR TERRITORY AFFECTED [persons  
49 having the qualifications of electors] may vote  
50 on all other questions, [involving an increase in  
51 any ad valorem tax rate and on borrowing by  
52 this state.]

53 Sec. 7. A board of state canvassers [consisting]  
54 of [4] FOUR members shall be established by law.  
55 No candidate for an office to be canvassed nor any  
56 inspector of elections shall be eligible to serve as  
57 a member of a board of canvassers. A majority  
58 of any board of canvassers shall not be composed  
59 of members of the same political party.

60 Sec. 8. Laws shall be enacted to provide for the

recall of all elective officers except judges of courts  
of record upon petition of electors equal in number  
to 25 percent of the number of persons voting [at]  
IN the last preceding election for the office of  
governor in the electoral district of the officer  
sought to be recalled. THE SUFFICIENCY OF  
any statement of reasons or grounds procedurally  
required shall be [deemed to pose] a political rather  
than a judicial question.

Sec. 9. The people reserve to themselves the  
power to propose laws and to enact and reject laws,  
called the initiative, and the power to reject laws  
enacted by the legislature, called the referendum.  
The power of initiative extends only to laws which  
the legislature may enact under this constitution.  
The power of referendum does not extend to acts  
making appropriations for state institutions or to  
meet deficiencies in state funds AND MUST BE  
INVOKED IN THE MANNER PRESCRIBED BY  
LAW WITHIN 90 DAYS FOLLOWING THE  
FINAL ADJOURNMENT OF THE LEGISLA-  
TIVE SESSION AT WHICH THE LAW WAS  
ENACTED. To invoke the initiative or referen-  
dum, petitions signed by a number of registered  
electors, not less than [8] EIGHT percent for initia-  
tive and [5] FIVE percent for referendum of the  
total vote cast for all candidates for governor at  
the last preceding general election AT WHICH A  
GOVERNOR WAS ELECTED shall be required.

NO LAW AS TO WHICH THE POWER OF  
REFERENDUM PROPERLY HAS BEEN IN-  
VOKED SHALL BE EFFECTIVE THEREAFTER  
UNLESS APPROVED BY A MAJORITY OF  
THE ELECTORS VOTING THEREON AT THE  
NEXT GENERAL ELECTION.

[The] ANY law proposed by initiative petition  
shall be either enacted or rejected by the legisla-  
ture without change or amendment within 40 days  
from the time such petition is received by the legis-  
lature. If any law proposed by such petition shall  
be enacted by the legislature it shall be subject to  
referendum, as hereinafter provided.

If the law so [petitioned for] PROPOSED is not  
enacted by the legislature within the 40 days, the  
state officer authorized by law shall submit such  
proposed law to the people for approval or rejec-  
tion at the next [ensuing] general election. The  
legislature may reject any measure so proposed  
by initiative petition and propose a different meas-  
ure upon the same subject by a yea and nay vote  
upon separate roll calls, and in such event both  
measures shall be submitted by such state officer  
to the electors for approval or rejection at the  
next [ensuing] general election.

Any [act] LAW submitted to the people by either  
initiative or referendum petition and approved by  
a majority of the votes cast thereon at any election  
shall take effect 10 days after the date of the  
official declaration of the vote. No [act] LAW

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

initiated or adopted by the people shall be subject to the veto power of the governor, and no [act] LAW adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors or [3/4] THREE-FOURTHS of the members elected to and serving in each house of the legislature. [Acts] LAWS adopted by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. If [2] TWO or more measures approved by the electors at the same election conflict, THAT [the measure] receiving the highest affirmative vote shall prevail.

The legislature shall implement the provisions of this section.

### ARTICLE III GENERAL GOVERNMENT

| Sec.                                 | Com.<br>Proposal |
|--------------------------------------|------------------|
| 1. Seat .....                        | 10a              |
| 2. Division of Powers .....          | 21a              |
| 3. Great Seal .....                  | 18a              |
| 4. Militia .....                     | 19a              |
| 5. Inter-Governmental Agreements ... | 128a             |
| 6. Internal Improvement .....        | 101a             |
| 7. Laws remain in effect .....       | 44a              |
| 8. Advisory Opinions .....           | 96k              |

#### Article III General Government

Sec. 1. The seat of government shall be at Lansing.

Sec. 2. The powers of government are divided into [3] THREE branches: legislative, executive[,] and judicial. No person [belonging to] EXERCISING POWERS OF one branch shall exercise powers properly belonging to another branch[,] except [in] AS [cases] expressly provided in this constitution.

Sec. 3. There shall be a great seal of the State of Michigan and its use shall be [prescribed] PROVIDED by law.

Sec. 4. The militia shall be organized, equipped and disciplined as provided by law.

Sec. 5. Subject to provisions of general law, this state or any political subdivision, ANY GOVERNMENTAL AUTHORITY or any combination thereof may enter into agreements[,] for the performance, financing or execution of their respective [governmental] functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution.

Any other provision of this constitution [to the contrary] notwithstanding, an officer or employee of the state or OF any [municipal corporation or other subdivision or agency] SUCH UNIT OF GOVERNMENT OR SUBDIVISION

OR AGENCY thereof may serve on or with any governmental body ESTABLISHED FOR THE PURPOSES SET FORTH IN THIS SECTION [as a representative of the state or any municipal corporation or other subdivision or agency thereof, or for the purpose of participating or assisting in the consideration or performance of joint or cooperative undertakings or for the study of governmental problems,] and shall not be required to relinquish his office or employment by reason of such service. The legislature [by statute] may impose such restrictions, limitations or conditions on such service as it may deem appropriate.

Sec. 6. The state shall not be a party to, nor be financially interested in, any work of internal improvement, nor engage in carrying on any such work, except for public internal improvements [authorized] PROVIDED by law.

Sec. 7. [All law not repugnant to this constitution,] THE COMMON LAW AND THE STATUTE LAWS NOW IN FORCE, NOT REPUGNANT TO THIS CONSTITUTION, shall remain in force until [changed, repealed or in the case of statutes they have expired because of limitations contained therein] THEY EXPIRE BY THEIR OWN LIMITATIONS, OR ARE CHANGED, AMENDED OR REPEALED.

Sec. 8. Either house of the legislature or the governor may request the opinion of the supreme court [up]on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date.

### ARTICLE IV LEGISLATIVE BRANCH

| Sec.                                                            | Com.<br>Proposal |
|-----------------------------------------------------------------|------------------|
| 1. Legislative Power, where vested ....                         | 118a             |
| 2. Senate, Number, Term, Districts ....                         | 80a              |
| 3. Representatives, Number, Term,<br>Districts .....            | 80b              |
| 4. Legislative Districts, merger .....                          | 80c              |
| 5. Island Areas .....                                           |                  |
| 6. Legislative Apportionment<br>Commission .....                | 79a              |
| 7. Legislators, qualifications, removal ..                      | 32a              |
| 8. Ineligibility of certain persons for<br>office .....         | 112a             |
| 9. Legislators, ineligibility for certain<br>appointments ..... | 120a             |
| 10. Conflict of interest .....                                  | 115a             |
| 11. Legislators, privileges .....                               | 33a              |
| 12. Legislators, compensation .....                             | 28a              |
| 13. Legislature, time of convening .....                        | 116a             |
| 14. Senate and House, quorums .....                             | 34a              |
| 15. Legislative Council .....                                   | 102c             |
| 16. Legislature, powers, rules .....                            | 102a             |
| 17. Legislature, committees .....                               | 102b             |
| 18. Legislature, journals, protest .....                        | 114a             |



|    |     |                                          |      |
|----|-----|------------------------------------------|------|
| 1  | 19. | Legislature, elections, recorded vote .  | 117a |
| 2  | 20. | Legislature, open public meetings ...    | 103a |
| 3  | 21. | Legislature, consent to adjourn .....    | 103a |
| 4  | 22. | Bills .....                              | 35a  |
| 5  | 23. | Style of laws .....                      | 29a  |
| 6  | 24. | Laws, object and title                   |      |
| 7  |     | First sentence .....                     | 121a |
| 8  |     | Last sentence .....                      | 105a |
| 9  | 25. | Laws, revision .....                     | 121a |
| 10 | 26. | Bills, requirements for passage          |      |
| 11 |     | First sentence .....                     | 105a |
| 12 |     | Remainder .....                          | 104a |
| 13 | 27. | Acts, immediate effect .....             | 121a |
| 14 | 28. | Bills, subjects at special session ..... | 105a |
| 15 | 29. | Local or special acts, referendum ....   | 119a |
| 16 | 30. | Appropriations for local purposes ...    | 41a  |
| 17 | 31. | General appropriations, priority .....   | 46b  |
| 18 | 32. | Tax laws, title .....                    | 53a  |
| 19 | 33. | Bills passed, approval and veto by       |      |
| 20 |     | governor .....                           | 70a  |
| 21 | 34. | Referendum on certain bills .....        | 113a |
| 22 | 35. | Publication of laws .....                | 24a  |
| 23 | 36. | Revision of laws, compilation .....      | 108a |
| 24 | 37. | Administrative rules, suspension ....    | 123a |
| 25 | 38. | Filling vacancies .....                  | 122a |
| 26 | 39. | Continuity of government .....           | 122a |
| 27 | 40. | Liquor Control Commission .....          | 27a  |
| 28 | 41. | Lotteries .....                          | 100a |
| 29 | 42. | Ports and port districts .....           | 87a  |
| 30 | 43. | Banking and trust company laws ....      | 5a   |
| 31 | 44. | Jury in civil cases .....                | 99a  |
| 32 | 45. | Indeterminate sentences .....            | 106a |
| 33 | 46. | Prohibition against death penalty ....   | 20a  |
| 34 | 47. | Chaplains .....                          | 111a |
| 35 | 48. | Resolution of public disputes .....      | 109a |
| 36 | 49. | Regulation of employment .....           | 110a |
| 37 | 50. | Atomic energy .....                      | 127a |
| 38 | 51. | Public Health .....                      | 126a |
| 39 | 52. | Natural resources .....                  | 125a |
| 40 | 53. | Auditor General .....                    | 78a  |

#### Article IV

##### Legislative Branch

Sec. 1. The legislative power of the State of Michigan is vested in a senate and a house of representatives.

Sec. 2. The senate shall consist of 38 members[,] to be elected from single member districts at the same [time] ELECTION as the governor for [4] FOUR-year terms concurrent with the term of office of the governor.

In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned an apportionment factor equal to the sum of its percentage of the state's population as shown by the last regular federal decennial census computed to the nearest [1/100] ONE-ONE HUNDREDTH of one percent multiplied by [4] FOUR and its per-

centage of the state's land area computed to the nearest [1/100] ONE-ONE HUNDREDTH of one percent.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties [are] IS entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.

(2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment FACTORS of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there [shall be] IS a failure to comply with the above standards.

(3) Counties entitled to [2] TWO or more senate districts shall be [further sub]divided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

Sec. 3. The house of representatives shall consist of 110 members elected for [2] TWO-year terms from single member districts apportioned on a basis of population as [hereinafter] provided IN THIS ARTICLE. The districts shall consist of compact and convenient territory contiguous by land.

Each county which has a population of not less than [7/10] SEVEN-TENTHS of one percent of the population of the state shall constitute a separate representative area. Each county having less than [7/10] SEVEN-TENTHS of one percent of the population of the state shall be combined with another county or counties to form a representative area of not less than [7/10] SEVEN-

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

TENTHS of one percent of the population of the state. Any county which is isolated under the initial allocation as [herein] provided IN THIS SECTION shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one representative.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to [2] TWO or more representatives shall be divided into single member representative districts as follows:

(1) The population of [each] SUCH districtS shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the representative area by the number of representatives to which it is entitled.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population adhering to county lines.

Sec. 4. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial district in the city with which it is combined upon the effective date of the annexation or merger[.]. THE DISTRICTS WITH WHICH THE TERRITORY SHALL BE COMBINED SHALL BE [as] determined by ordinance of the city certified to the secretary of state.

[No legislator shall be deemed to have vacated his office by virtue of the above section.] NO SUCH CHANGE IN THE BOUNDARIES OF A REPRESENTATIVE OR SENATORIAL DISTRICT SHALL HAVE THE EFFECT OF REMOVING A LEGISLATOR FROM OFFICE DURING HIS TERM.

Sec. 5. ISLAND AREAS ARE CONSIDERED TO BE CONTIGUOUS BY LAND TO THE COUNTY OF WHICH THEY ARE A PART.

Sec. 6. A commission on legislative apportionment is hereby established consisting of [8] EIGHT persons, [4] FOUR of whom shall be selected by the state organizations of each of the [2] TWO political parties whose candidates for governor received the highest vote at the last general election AT WHICH A GOVERNOR WAS ELECTED preceding each apportionment. If a candidate for

governor of a third political party has received at such election more than 25 percent of such gubernatorial vote, the commission shall consist of 12 members, [4] FOUR of whom shall be selected by the state organization of the third political party. One member of the commission shall be selected by each political party organization from each of the following [4] FOUR regions: (1) The upper peninsula; (2) The northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) Southwestern Michigan, those counties south of region (2) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) Southeastern Michigan, the remaining counties of the state.

No officers or employees of the federal, state or local governments, excepting notaries public and members of the armed forces reserve, shall be eligible for membership on the commission. Members of the commission shall not be eligible for election to the legislature until [2] TWO years after the apportionment [plan] in which they participated becomes effective.

The commission shall be appointed immediately after the adoption of this constitution and whenever [Re]apportionment or districting OF THE LEGISLATURE is required by the provisions of this constitution. Members of the commission shall hold office until each apportionment or districting plan becomes effective. Vacancies shall be filled in the same manner as for original appointment.

The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman, shall make its own rules of procedure, and shall receive compensation provided by law. The legislature shall appropriate funds [necessary] to enable the commission to carry out its activities.

Within 30 days after the adoption of this constitution, and after the official total population count of each federal decennial census of the state and its political subdivisions is available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to DISTRICT AND apportion[, and district,] the senate and house of representatives according to the provisions of this constitution. All final decisions shall require the concurrence of a majority of [all of] the members of the commission. The commission shall hold public hearings as may be provided by law.

Each final apportionment and districting plan shall be published as provided by law within 30 days from the date of its adoption and shall become law 60 days after publication. The secretary of state shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of each plan.

If a majority of the commission cannot agree on a plan, each member of the commission, individually or jointly with other members, may submit a proposed plan to the supreme court. The supreme court shall determine which plan complies most accurately with the constitutional requirements and shall direct that it be adopted BY THE COMMISSION and published as provided in this section.

Upon the application of any [qualified] elector filed not later than 60 days after final publication of the plan, the supreme court, in the exercise of original jurisdiction, shall direct the secretary of state or the apportionment commission to perform their duties, may review any final plan adopted by the commission, and shall make orders amending such plan if it fails to comply with the requirements of this constitution.

Sec. 7. Each senator and representative MUST [shall] be a citizen of the United States, at least 21 years of age, and AN [a qualified] elector of the district he represents[,] . [and] The removal of his domicile from the district shall be deemed a vacation of the office. No person who has been convicted of subversion or who has within the preceding 20 years been convicted of a felony involving a breach of public trust shall be eligible for either house of the legislature.

Sec. 8. No person holding any office under the United States or this state or a political subdivision thereof, except notaries public and officers of the armed forces reserve, may be a member of either house of the legislature.

Sec. 9. No person elected TO [a member of] the legislature shall receive any civil appointment within this state from the governor, except notaries public, [from the governor and senate,] from the legislature, or from any other state authority, during the term for which he is elected.

Sec. 10. No member of the legislature nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest. The legislature shall further implement this provision by appropriate legislation.

Sec. 11. Senators and representatives shall be privileged from civil arrest and civil process during sessions of the legislature and for [5] FIVE days next before the commencement and after the termination thereof. They shall not be questioned in any other place for any speech in either

house.

Sec. 12. The annual salary of the members of the legislature shall be not less than \$9,000[.], AS PROVIDED BY LAW. Members of the legislature shall be entitled to REIMBURSEMENT FOR [2] TWO round trips home EACH [per] month while the legislature is in session, and expenses in connection with the work of interim committees. [No] ChangeS in salary or expenses shall beCOME effective [during the term of office for which the legislature making the change was elected] ONLY WHEN LEGISLATORS COMMENCE THEIR TERM OF OFFICE AFTER A GENERAL ELECTION except and only to the extent of a general salary reduction in all other branches of STATE government.

No person serving in the legislature shall receive at any time for his services as a member of the legislature any additional fees, compensation or financial benefits from the state or its political subdivisions. This section shall not be construed to [deny] AFFECT retirement benefits [to those] OF legislators [eligible to receive] WHICH HAVE [these benefits at] ACCRUED PRIOR TO the [time] EFFECTIVE DATE OF this constitution [becomes effective].

Sec. 13. The legislature shall meet at the seat of government on the second Wednesday in January of each year at [12:00] TWELVE o'clock noon. Each regular session shall adjourn without day, on a day determined by concurrent resolution, at TWELVE [12:00] o'clock noon. Any business, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over WITH THE SAME STATUS to the next regular session.

Sec. 14. A majority of the members elected to and serving in each house shall constitute a quorum to do business. A smaller number in each house may adjourn from day to day, and may compel the attendance of absent members in the manner and with penalties as each house may prescribe.

Sec. 15. There shall be a bi-partisan legislative council consisting of legislators appointed in the manner prescribed by law. The legislature shall appropriate [adequate] funds for the council's operations and provide for its staff which shall maintain bill drafting, research and other services for the members of the legislature. The council shall PERIODICALLY [from time to time] examine and recommend to the legislature revision of the various laws of the state.

Sec. 16. Each house, except as otherwise provided in this constitution, shall choose its own officers and determine the rules of its proceedings, but shall not adopt any rule that will prevent a majority of the members elected thereto and serving therein from discharging a committee

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

1 from the further consideration of any measure.  
2 Each house shall BE THE SOLE judge of the  
3 qualifications, elections and returns of its mem-  
4 bers, and may, with the concurrence of TWO-  
5 THIRDS [2/3] of all the members elected thereto  
6 and serving therein, expel a member. The reasons  
7 for such expulsion shall be entered IN [upon] the  
8 journal, with the [yeas and nays] VOTES AND  
9 NAMES of the members voting upon the ques-  
10 tion. No member shall be expelled a second time  
11 for the same cause.

12 Sec. 17. Each house of the legislature may  
13 establish the committees necessary for the effi-  
14 cient conduct of its business and the legislature  
15 may create joint committees. Each committee  
16 shall [keep a recorded] BY roll call vote RECORD  
17 THE VOTE AND NAME [by yeas and nays] of  
18 all action on bills and resolutions taken in the  
19 committee. Such vote shall be available FOR [to]  
20 public inspection. Notice of all committee hear-  
21 ings and a clear statement of all subjects to be  
22 considered at each hearing shall be published in  
23 the journal in advance of the hearing.

24 Sec. 18. Each house shall keep a journal of  
25 its proceedings, and publish the same unless se-  
26 curity otherwise requires. The [yeas and nays]  
27 RECORD OF THE VOTE AND NAME of the  
28 members of either house VOTING on any question  
29 shall be entered in the journal at the request of  
30 [1/5] ONE-FIFTH of the members present. Any  
31 member of either house may dissent from and  
32 protest against any act, proceeding or resolution  
33 which he deems injurious to any person or the  
34 public, and have the reason for his dissent entered  
35 in the journal.

36 Sec. 19. All elections in either house or in  
37 joint convention and all votes on appointments  
38 [recommended to the senate for confirmation]  
39 SUBMITTED TO THE SENATE FOR ADVICE  
40 AND CONSENT shall be [taken by yeas and  
41 nays and] published BY VOTE AND NAME in  
42 the journal.

43 Sec. 20. The doors of each house shall be open  
44 unless the public security otherwise requires.

45 Sec. 21. Neither house shall, without the con-  
46 sent of the other, adjourn for more than [3] TWO  
47 INTERVENING CALENDAR days, nor to any  
48 place other than where the legislature may then  
49 be in session.

50 Sec. 22. All legislation [by the legislature]  
51 shall be by bill and may originate in either house.

52 Sec. 23. The style of the laws shall be: The  
53 People of the State of Michigan enact.

54 Sec. 24. No law shall embrace more than one  
55 object, which shall be expressed in its title. No  
56 bill shall be altered or amended on its passage  
57 through either house so as to change its original  
58 purpose as determined by its total content and  
59 not alone by its title.

60 Sec. 25. No law shall be revised, altered or

1 amended by reference to its title only. The section  
2 or sections of the act altered or amended shall  
3 be re-enacted and published at length.

4 Sec. 26. No bill shall be passed or become a  
5 law at any regular session of the legislature until  
6 it has been printed or reproduced and in the pos-  
7 session of each house for at least [5] FIVE days.  
8 Every bill shall be read THREE [3] times in each  
9 house before the final passage thereof. No bill  
10 shall become a law without the concurrence of a  
11 majority of [all] the members elected to and  
12 serving in each house. On the final passage of [all]  
13 bills, the voteS AND NAMES OF THE MEMBERS  
14 VOTING THEREON shall be [by yeas and nays  
15 and] entered in the journal.

16 Sec. 27. No act shall take effect [or be in force]  
17 until the expiration of 90 days from the end of  
18 the session at which it was passed, but the legis-  
19 lature may give immediate effect to acts by a [2/3]  
20 TWO-THIRDS vote of the members elected to and  
21 serving in each house.

22 Sec. 28. When the legislature is convened on  
23 extraordinary occasions in special session no bill  
24 shall be passed on any subjects other than those  
25 expressly stated in the governor's proclamation  
26 or submitted by special message.

27 Sec. 29. The legislature shall pass no local  
28 or special act in any case where a general act can  
29 be made applicable, and whether a general act  
30 can be made applicable shall be a judicial question.  
31 No local or special act shall take effect until  
32 approved by TWO-THIRDS [2/3] of the mem-  
33 bers elected to and serving in each house [of the  
34 legislature] and by a majority of the electors vot-  
35 ing thereon in the district [to be] affected. Any  
36 act repealing local or special acts [in effect as of  
37 the effective date of this constitution] shall re-  
38 quire only a majority of the members elected to  
39 and serving in each house and shall not require  
40 submission to the electors of such district.

41 Sec. 30. The assent of TWO-THIRDS [2/3] of  
42 the members elected to and serving in each house  
43 of the legislature shall be required for the appro-  
44 priation of public money or property for local or  
45 private purposes.

46 Sec. 31. The general appropriation bills for the  
47 succeeding fiscal period covering items set forth  
48 in the budget shall be passed or rejected in either  
49 house of the legislature before that house passes  
50 any appropriation bill for items not in the budget  
51 except bills supplementing appropriations for the  
52 current FISCAL year's operation. Any bill re-  
53 quiring an appropriation to carry out its purpose  
54 shall be considered an appropriation bill. One of  
55 the general appropriation bills as passed by the  
56 legislature shall contain an itemized statement of  
57 estimated revenue by major source in each oper-  
58 ating fund for the ensuing fiscal period, the total  
59 of which shall not be less than the total of all  
60 appropriations made from each fund in the gen-

eral appropriation bills as passed.

Sec. 32. Every law which imposes, continues or revives a tax shall distinctly state the tax.

Sec. 33. Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he does not approve, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated. That house shall enter such objections in full in its journal and reconsider the bill. If TWO-THIRDS [2/3] of the members elected TO and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by TWO-THIRDS [2/3] of the members elected TO and serving in that house. The vote of each house shall be [determined by the yeas and nays, and the names of the members voting for and against the bill shall be] entered in the journal WITH THE VOTES AND NAMES OF THE MEMBERS VOTING THEREON. If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it.

Sec. 34. Any bill passed by the legislature and approved by the governor, except A BILL appropriATING MONEY [ion bills], may [be referred by the legislature to the qualified electors. No bill so referred shall] PROVIDE THAT IT WILL NOT become [a] law unless approved by a majority of the electors voting thereon.

Sec. 35. All laws enacted at any session of the legislature shall be published in book form within 60 days after final adjournment of the session, and shall be distributed in the manner provided by law. The [speedy] PROMPT publication of judicial decisions shall be provided by law. All laws and judicial decisions shall be free for publication by any person.

Sec. 36. No general revision of the laws shall [hereafter] be made. The legislature may provide for a compilation of the laws in force, arranged without alteration, under appropriate heads and titles.

Sec. 37. The legislature may by concurrent resolution empower a joint committee of the legislature acting [in the interim] between sessions to suspend until the end of the next regular legislative session any rule or regulation [promulgated

by] OF an administrative agency PROMULGATED when the legislature is not in regular session.

Sec. 38. The legislature may provide by law the cases in which any office shall be [deemed] vacant and the manner of filling vacancies[,] where no provision is made in this constitution.

Sec. 39. In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state CAUSED by enemy attack on the United States, the legislature MAY [shall have the power to such extent as it deems advisable (1) to] provide by [legislative enactment] LAW for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices[,] and ENACT [(2) to adopt by legislative enactment such] other [legislation] LAWS [as may be] necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred by this section, elections shall always be called as soon as possible to fill any [elective] vacancies in [any] ELECTIVE offices temporarily occupied by operation of any legislation enacted pursuant to the provisions of this section.

Sec. 40. The legislature may by law establish a liquor control commission[,] which, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof. [and] THE LEGISLATURE may provide for an excise tax on such sales. Neither the legislature nor the commission may authorize the manufacture or sale of alcoholic beverages in any county in which a majority of the electors voting thereon shall prohibit the same.

Sec. 41. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

Sec. 42. The legislature may provide for the incorporation of ports and port districts, and confer power and authority upon them to engage in work of internal improvements in connection therewith.

Sec. 43. No general law providing for the incorporation of trust companies or corporations for banking purposes, or regulating the business thereof, shall be enacted, amended or repealed except by a vote of [2/3] TWO-THIRDS of the members elected to and serving in each house [of the legislature].

Sec. 44. The legislature may authorize a trial by a jury of less than 12 jurors in civil cases.

Sec. 45. The legislature may provide for indeterminate sentences as [a] punishment for crime and for the detention and release of per-

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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| 2. Principal Departments (part<br>Schedule) . . . . .          | 71b              |
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## Article V Executive Branch

Sec. 1. The executive power is vested in the governor.

Sec. 2. All executive and administrative offices, agencies and instrumentalities of the EXECUTIVE BRANCH OF state government and their respective functions, powers and duties, except for the office of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes.

Subsequent to the initial allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders AND SUBMITTED TO THE LEGISLATURE. THEREAFTER the legislature shall have 60 CALENDAR days of a regular session, or a full session if of shorter duration, to disapprove [these] EACH executive order[s]. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, [these] EACH order[s] shall become effective at a date thereafter to be designated by the governor.

Sec. 3. The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer and an attorney general. When a single executive [other than an elective official,] is the head of a principal department, UNLESS ELECTED OR APPOINTED AS OTHERWISE PROVIDED IN THIS CONSTITUTION, he shall be [nominated and,] APPOINTED BY THE GOVERNOR by and with the advice and consent of the senate[, appointed by the governor] and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, [the members thereof,] unless elected or appointed as otherwise provided in this constitution, THE MEMBERS THEREOF shall be [nominated and,] APPOINTED BY THE GOVERNOR by and with the advice and consent of the senate[, appointed by the governor]. The term of office and procedure for removal of such members shall be as prescribed in this constitution or by law.

Terms of office of any board or commission

created or enlarged after [adoption] THE EFFECTIVE DATE of this constitution shall not exceed [4] FOUR years except as otherwise authorized in this constitution. The terms of office of existing boards and commissions[,] which are [greater] LONGER than [4] FOUR years shall not be further extended except as provided in this constitution.

Sec. 4. At no time shall an examining or licensing board of a profession INCLUDE [be composed of] less than a majority of members of that profession. Temporary commissions or agencies for special purposes with a life of no more than [2] TWO years may be established by law and need not be allocated within a principal department.

Sec. 5. Appointment by and with the advice and consent of the senate when used in this constitution or [in statutes] LAWS in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 [legislative] SESSION days after the date of such appointment. [If the] ANY appointment [is] not disapproved within such period [of time the appointment] shall stand confirmed.

Sec. 6. [When the senate is not in session, the governor shall fill a vacancy] VACANCIES in any office, appointment to which requires advice and consent of the senate, [by appointment which may be disapproved by the senate in the manner provided for other] SHALL BE FILLED BY THE GOVERNOR BY AND WITH THE ADVICE AND CONSENT OF THE SENATE. [appointments requiring such advice and consent.] A person [who] WHOSE APPOINTMENT has been disapproved by the senate shall not be eligible for [another] AN interim appointment to the same office.

Sec. 7. Each principal department shall be under the supervision of the governor[, unless otherwise provided by this constitution. The governor shall take care that the laws be faithfully executed. He shall transact all necessary business with the officers of government and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may initiate court proceedings in the name of the state to enforce compliance with any constitutional or legislative mandate, or to restrain violations of any constitutional or legislative power, duty[, or right by any officer, department[, or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize court proceedings against the legislature.

Sec. 8. Single executives heading principal departments and the chief executive officers of

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

principal departments headed by boards or commissions shall keep their offices at the seat of government except as otherwise provided by law, superintend them in person and perform duties prescribed by law.

Sec. 9. The governor shall have power and it shall be his duty[,] to inquire into the condition and administration of any public office and the acts of any public officer, elective or appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or FOR any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and report the [causes of] REASONS FOR such removal or suspension to the legislature. [if in session or otherwise at its next session.]

Sec. 10. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an appointed or elected officer, other than a [judicial] LEGISLATIVE OR JUDICIAL officer, until he is REINSTATED [acquitted] or[, if convicted,] until the vacancy is filled in the manner prescribed by law or this constitution [for such office].

Sec. 11. The governor shall be commander-in-chief of the armed forces and may call them out to execute the laws, suppress insurrection and repel invasion.

Sec. 12. The governor shall issue writs of election to fill vacancies in the senate or house of representatives. Any such election shall be held in a manner prescribed by law.

Sec. 13. The governor shall have power to grant reprieves, commutations and pardons after convictions for all offenses, except cases of impeachment, upon such conditions and limitations as he may direct, subject to procedures and regulations [provided] PRESCRIBED by law. He shall inform the legislature annually of each reprieve, commutation and pardon granted, stating reasons therefor.

Sec. 14. The governor may convene the legislature on extraordinary occasions.

Sec. 15. The governor may convene the legislature at some other place when the seat of government becomes dangerous from any cause.

Sec. 16. The governor shall communicate by message to the legislature at the beginning of each session and may at other times present to the legislature information as to the affairs of the state and recommend measures he considers necessary or desirable.

Sec. 17. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, for all operating funds, the proposed expenditures and estimated revenue of the state. Proposed expenditures from any fund shall not exceed the estimated revenue thereof. On the same date, the

governor shall submit to the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills to provide new or additional revenues to meet proposed expenditures. The amount of any surplus created or deficit incurred in any fund during the last preceding fiscal period shall be entered as an item in the budget and in one of the appropriation bills. The governor may submit amendments to appropriation bills to be offered in either house during consideration of the bill by that house, and shall submit any bills to meet deficiencies in current appropriations.

Sec. 18. The governor [shall have power to] MAY disapprove any distinct item or items APPROPRIATING MONEYS in any appropriation bill. The part or parts approved shall become law, and the item or items disapproved shall be void unless re-passed according to the method prescribed for the passage of other bills over the executive veto.

Sec. 19. No appropriation shall be [deemed] a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures AUTHORIZED BY [of any bodies receiving] appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based. Reductions in expenditures shall be made in accordance with procedures [established] PRESCRIBED by law. The governor[']s power to reduce expenditures shall not apply to] MAY NOT REDUCE EXPENDITURES OF the legislative and judicial branches or FROM [to those services for which] funds CONSTITUTIONALLY DEDICATED FOR SPECIFIC PURPOSES. [are mandated by this constitution.]

Sec. 20. The governor, lieutenant governor, secretary of state and attorney general shall be elected FOR FOUR-YEAR TERMS at the general election in each alternate even-numbered year. [They shall serve for terms of 4 years beginning at 12:00 o'clock noon on the first day of January next succeeding their election.]

The lieutenant governor, secretary of state and attorney general shall be nominated by party conventions in a manner prescribed by law. In the general election one vote shall be cast jointly for the candidates for governor and lieutenant governor nominated by the same party.

VACANCIES IN THE OFFICE OF THE SECRETARY OF STATE AND ATTORNEY GENERAL SHALL BE FILLED BY APPOINTMENT BY THE GOVERNOR.

Sec. 21. [No person shall] TO be eligible for the office of governor or lieutenant governor [who shall not have] A PERSON MUST HAVE attained the age of 30 years, and [who shall] have [not] been [4 years next preceding his election] a registered elector in this state FOR FOUR

YEARS NEXT PRECEDING HIS ELECTION.

Sec. 22. The governor, lieutenant governor, secretary of state[, state treasurer ] and attorney general shall each receive the compensation [prescribed] PROVIDED by law in full payment for all services performed and expenses incurred during his term of office. Such compensation shall not be changed during the term of office except as otherwise provided in this constitution.

Sec. 23. An executive residence suitably furnished shall be provided at the seat of government for the use of the governor. He shall receive an allowance for its maintenance as provided by law.

Sec. 24. The lieutenant governor shall be president of the senate, but shall have no vote except in case of equal division. He [shall] MAY perform [additional] duties [as] requested of him by the governor[.], BUT NO POWER VESTED IN THE GOVERNOR SHALL BE DELEGATED.

Sec. 25. In case of the conviction of the governor on impeachment, his removal from office, his resignation, or [the] HIS death, [of the governor or governor-elect, the powers and duties of the office shall vest, in the following order of precedence, in the person elected at the last election to the office of] THE lieutenant governor, THE ELECTED secretary of state, THE ELECTED attorney general, and such other persons designated by law[, who] shall IN THAT ORDER be governor [after the commencement of their term] for the [residue] REMAINDER of the governor's term.

IN CASE OF THE DEATH OF THE GOVERNOR-ELECT, THE LIEUTENANT GOVERNOR-ELECT, THE SECRETARY OF STATE-ELECT, THE ATTORNEY GENERAL-ELECT AND SUCH OTHER PERSONS DESIGNATED BY LAW SHALL BECOME GOVERNOR IN THAT ORDER AT THE COMMENCEMENT OF THE GOVERNOR-ELECT'S TERM.

If the governor or the person in line of succession to serve as governor is absent from the state, or suffering under an inability [as determined herein], the powers and duties of the office of governor shall devolve in order of precedence [upon such persons] until the absence or inability giving rise to the DEVOLUTION [devolvment] of powers ceases.

The inability of the governor[, governor-elect] or person[s serving] ACTING as governor shall be determined by a majority of the supreme court on joint request of the president pro tempore of the senate and the speaker of the house of representatives. Such determination shall be final and conclusive. The supreme court shall upon its own initiative determine if and when the inability ceases.

Sec. 26. The legislature shall provide that the

salary of any state officer WHILE ACTING AS [performing the duties of] governor [is] SHALL BE equal to that of the governor.

Sec. 27. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as [shall be prescribed] PROVIDED by law.

The state highway commission shall consist of [4] FOUR members, not more than [2] TWO of whom shall be members of the same political party. They shall be appointed by the governor BY AND with the advice and consent of the senate for [4] FOUR-year terms, no [2] TWO of which shall expire in the same year AS PROVIDED BY LAW.

The state highway commission shall appoint AND MAY REMOVE a state highway director, who shall be a competent highway engineer and administrator. He shall be the PRINCIPAL [chief] executive OFFICER of the state highway department and shall be responsible for executing the policy of the state highway commission.

Sec. 28. There is hereby established a civil rights commission which shall consist of [8] EIGHT persons, not more than [4] FOUR of whom shall be members of the same political party, who shall be appointed by the governor, with the advice and consent of the senate, for [4] FOUR-year terms not more than [2] TWO of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of [race] religion, RACE, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have [the] power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

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

## ARTICLE VI JUDICIAL BRANCH

| Sec. |                                                  | Com.<br>Proposal |
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| 1.   | Judicial power .....                             | 90a              |
| 2.   | Supreme Court; justices, election,<br>term ..... | 91a              |
| 3.   | Supreme Court; chief justice .....               | 91b              |
| 4.   | Supreme Court; jurisdiction .....                | 91c              |
| 5.   | Supreme Court; rules .....                       | 91d              |
| 6.   | Supreme Court; written decisions ..              | 91e              |
| 7.   | Supreme Court, staff supervision ...             | 91f              |
| 8.   | Court of Appeals; judges, elections..            | 92a              |
| 9.   | Court of Appeals; terms .....                    | 92b              |
| 10.  | Court of Appeals; jurisdiction .....             | 92c              |
| 11.  | Judicial Circuits; districts .....               | 93a              |
| 12.  | Circuit Courts; elections, terms ....            | 93b              |
| 13.  | Circuit Courts; jurisdiction .....               | 93c              |
| 14.  | Clerk; vacancies .....                           | 93d              |
| 15.  | Probate Courts; jurisdiction .....               | 94a              |
| 16.  | Probate Courts; judges, elections ...            | 94b              |
| 17.  | Salaries; restriction .....                      | 96a-1            |
| 18.  | Salaries; uniformity .....                       | 96g              |
| 19.  | Courts of Record; seal .....                     | 96a              |
| 20.  | Judge; removal from domicile .....               | 96b              |
| 21.  | Judges; ineligibility for other office..         | 96c              |
| 22.  | Candidacy; affidavit .....                       | 96l              |
| 23.  | Vacancy; courts of record .....                  | 96d              |
| 24.  | Judges; ballot designation .....                 | 96e              |
| 25.  | Removal .....                                    | 96h              |
| 26.  | Certain offices abolished .....                  | 96i              |
| 27.  | Prohibition; power of appointment ..             | 96n              |
| 28.  | Administrative decisions; review ...             | 95a              |
| 29.  | Conservators of peace .....                      | 96o              |

### Article VI Judicial Branch

Sec. 1. The judicial power of the state is vested exclusively in one court of justice[,] which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and other courts of limited jurisdiction that the legislature may establish by a [2/3] TWO-THIRDS vote of the members ELECTED TO AND SERVING IN [of] each house.

Sec. 2. The supreme court shall consist of [8] SEVEN justices [to be] elected at non-partisan elections as provided by law. [A vacancy hereafter created as the result of the death, retirement or resignation of one incumbent justice shall not be filled.] The term of office shall be [for 8] EIGHT years and not more than [3] TWO terms of office shall expire at the same time. Nominations for justices of the supreme court shall be in the manner [as provided] PRESCRIBED by law[.]. [except] Any incumbent justice whose term is to expire may become a candidate for re-election by filing an affidavit of candidacy, in the form and manner prescribed by law, not less than 180

days prior to the expiration of his term.

Sec. 3. One justice of the supreme court shall be selected by the court as its chief justice AS [in the manner and for the term] provided by [the] rules of the court. He shall perform other duties required by the court. The supreme court shall appoint an administrator of the courts and other assistants of the supreme court as [shall] MAY be [deemed] necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.

Sec. 4. The supreme court shall have general superintending control over all courts; power to issue, hear, and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.

Sec. 5. The supreme court shall by general rules establish, modify, amend and simplify the practice and procedure in all courts of this state. The distinctions between law and equity proceedings shall, as far as practicable, be abolished. The office of master in chancery is prohibited.

Sec. 6. Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent.

Sec. 7. The supreme court may appoint, may remove, and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of [the funds] MONEYS appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

Sec. 8. The court of appeals shall consist initially of [9] NINE judges who shall be nominated and elected [on a] AT non-partisan ELECTIONS [basis] from districts, and in the manner, prescribed by law. The supreme court may prescribe by rule that the court of appeals may sit in divisions and for the terms of court and the times and places thereof. Each such division shall consist of not fewer than three judges. The number of judges comprising the court of appeals may be increased, and the districts from which they are elected may be [altered] CHANGED by law.

Sec. 9. Judges of the court of appeals shall hold office for a TERM [period] of [6] SIX years and until their successors are elected and qualified. The terms of office for the judges in each district shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 10. The jurisdiction of the court of appeals shall be provided by law and the practice and procedure therein shall be [as provided] PRE-SCRIBED by rules of the supreme court.

Sec. 11. The state shall be divided into judicial circuits along county lines in each of which there shall be elected one or more circuit judges as provided by law. [A] SESSIONS OF THE circuit court shall be held at least [4] FOUR times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or counties within the circuit in which he is elected, and in other circuits as may be provided by rules of the supreme court. The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall be created, altered and discontinued on recommendation of the supreme court to reflect changes in judicial activity. No change in the number of judges [n]or alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.

Sec. 12. Circuit judges shall be nominated and elected at non-partisan elections in the circuit in which they reside, and shall hold office for a TERM [period] of [6] SIX years and until their successors are elected and qualified. In circuits having more than one circuit judge their terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 13. THE circuit court[s] shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions[,] in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court.

Sec. 14. The clerk of each county organized for judicial purposes or other officer performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such county. The judges of the circuit court[s] may fill [any] A vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions.

Sec. 15. In each county organized for judicial purposes[,] there shall be a probate court. The legislature may [combine one or more counties into] CREATE OR ALTER probate COURT districts OF MORE THAN ONE COUNTY [upon the approval by a majority of the voters of each county voting separately on the question,] IF AP-PROVED IN EACH AFFECTED COUNTY BY A MAJORITY OF THE ELECTORS VOTING ON THE QUESTION. [or combine] THE LEGISLA-

TURE MAY PROVIDE FOR THE COMBINATION OF the office of probate judge with any judicial office of limited jurisdiction [in any] WITHIN A county with supplemental salary as provided by law. The jurisdiction, powers and duties of the probate court[s] and of the judges thereof shall be [prescribed] PROVIDED by law. They shall [also] have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. 16. ONE OR MORE judges of probate AS PROVIDED BY LAW shall be nominated and elected at non-partisan elections in the counties or the probate districtS in which they reside and shall hold office for [a period] TERMS of [6] SIX years and until their successors are elected and qualified. In counties or districts with more than one judge the terms of office shall be arranged by law to provide that NOT all terms will [not] expire at the same time.

Sec. 17. No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or [by] the amount of judicial activity of his office.

Sec. 18. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within a [county or] circuit, and of the probate judges within a county or district, shall be uniform, and may be increased, but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

Each of the judges of the circuit court[s] shall receive an annual salary as provided by law. In addition to the salary received from the state, [treasury,] each circuit judge may receive from any county in which he regularly holds court [such] AN additional salary as [may be] determined from time to time by the board of supervisors of the county. In any county where [such] AN additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

Sec. 19. The supreme court, the court of appeals, the circuit court, the probate court and other courts designated as such by the legislature shall be courts of record and [shall] each SHALL have a common seal. [Except as otherwise authorized by this constitution,] Justices and judges of [the] courts of record [of this state shall] MUST be PERSONS WHO ARE licensed to practice law in this state. [and] No person shall be elected or appointed to a judicial office after reaching the age of 70 years.

Sec. 20. Whenever a JUSTICE OR judge removes his domicile beyond the limits of the territory from which he was elected, he shall [be deemed to] have vacated his office.

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

Sec. 21. Any justice or judge of a court of record shall be ineligible to be nominated for or elected to an elective office other than a judicial office during the period of his service [as a judge] and for one year thereafter.

Sec. 22. Any elected judge of [a] THE court of appeals, circuit court or probate court may become a candidate in the primary election for the office of which he is the incumbent by filing an affidavit of candidacy in the form and manner [provided] PRESCRIBED by law.

Sec. 23. A vacancy in the elective office of a judge of any court of record shall be filled at a general or special election AS PROVIDED BY [according to] law. The supreme court may authorize persons who have served as judges and who have retired, to perform judicial duties for the limited period of time from the occurrence of the vacancy until the successor is elected and qualified. SUCH PERSONS SHALL BE INELIGIBLE FOR ELECTION TO FILL THE VACANCY.

Sec. 24. There shall be printed upon the ballot under the name of each elected incumbent justice or judge[,] who is a candidate for nomination or election to the same office[,] the designation of that office.

Sec. 25. For reasonable cause, which is not sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of [2/3] TWO-THIRDS of the members elected to and serving in each house of the legislature. The cause for removal shall be stated at length in [such] THE resolution.

Sec. 26. The offices of circuit court commissioner and justice of the peace shall be abolished at the expiration of [5] FIVE years from the date this constitution becomes effective or may within this period be abolished by law. Their jurisdiction and powers within this period shall be as provided by law. Within [such] THIS [5] FIVE-year period, the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law. The location of such court or courts, and the qualifications, tenure, method of election[,] and salary of the judges of such court or courts, and by what governmental units the JUDGES [same] shall be paid, shall be provided by law, subject to the limitations contained in this Article.

Statutory courts in existence at the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until they are abolished by law.

Sec. 27. The supreme court, the court of appeals, the circuit court, or any justices or judges thereof, shall not exercise any power of appointment to public office except as [otherwise] provided in this constitution.

Sec. 28. All final decisions, findings, rulings

and orders of any administrative officer or [body] AGENCY existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights [,] or licenses, shall be subject to direct review by the courts as [shall be] provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law[,] and, in cases in which a hearing is required, whether the same are supported by competent, material[,] and substantial evidence on the whole record[:]. [Provided however, that the] Findings of fact [of the] IN workmen's compensation [commission] PROCEEDINGS shall be conclusive in the absence of fraud unless otherwise provided by law.

Sec. 29. Justices of the supreme court, judges of the court of appeals, circuit judges[,] and other judges as provided by law shall be conservators of the peace within their respective jurisdictions.

## ARTICLE VII LOCAL GOVERNMENT

| Sec.                                                                                      | Com. Proposal |
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| 1. Counties; corporate character .....                                                    | 81a           |
| 2. Counties; charter .....                                                                | 89a           |
| 3. Townships in county .....                                                              | 81b           |
| 4. County officers .....                                                                  | 81c           |
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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.

1 Sec. 15. Any county, when authorized by its  
2 BOARD OF SUPERVISORS [legislative body]  
3 shall have the authority to enter or to intervene  
4 in any ACTION [suit] or certificate proceed-  
5 ing involving the services, charges or rates of  
6 any privately owned public utility furnishing serv-  
7 ices or commodities to rate payers within the  
8 county.

9 Sec. 16. The legislature may provide for the  
10 laying out, construction, improvement and main-  
11 tenance of highways, bridges, culverts and airports  
12 by the state and by the counties and townships  
13 thereof; and may authorize counties to take charge  
14 and control of any highway within their limits  
15 for such purposes. The legislature may [also  
16 prescribe] PROVIDE the powers and duties of  
17 counties in relation to highways, bridges, culverts  
18 and airports; may provide for county road com-  
19 missioners to be appointed or elected, with powers  
20 and duties [as may be prescribed] PROVIDED by  
21 law. The ad valorem property tax IMPOSED for  
22 road purposes by any county shall not exceed in  
23 any year [1/2] ONE-HALF of one percent of the  
24 assessed valuation for the preceding year.

25 Sec. 17. Each organized township shall be a  
26 body corporate with powers and immunities [pre-  
27 scribed] PROVIDED by law [and not inconsistent  
28 with this constitution].

29 Sec. 18. IN EACH ORGANIZED TOWNSHIP  
30 there shall be elected for [a] termS of not less  
31 than [2 years] TWO nor more than [4] FOUR  
32 years as [provided] PRESCRIBED by law [in  
33 each organized township] a [township] supervisor,  
34 a [township] clerk, a [township] treasurer, and[,]  
35 not to exceed [4 township] FOUR trustees, whose  
36 legislative and administrative powers and duties  
37 shall be [prescribed] PROVIDED by law.

38 Sec. 19. No ORGANIZED township shall grant  
39 any public utility franchise which is not subject  
40 to revocation at the will of the township, unless  
41 the proposition shall FIRST have BEEN AP-  
42 PROVED BY [first received the affirmative vote  
43 of] a majority of the electors of such township  
44 voting thereon at a regular or special election.

45 Sec. 20. The legislature shall provide by law  
46 for the dissolution of township government when-  
47 ever all the territory of [a] AN ORGANIZED  
48 township is included within the boundaries of a  
49 village or villages NOTWITHSTANDING THAT  
50 A VILLAGE MAY INCLUDE TERRITORY  
51 WITHIN ANOTHER ORGANIZED TOWNSHIP  
52 and provide by law for the classification of such  
53 village or villages as cities [notwithstanding that a  
54 village may include territory within another town-  
55 ship].

56 Sec. 21. The legislature shall provide by gen-  
57 eral laws for the incorporation of cities and  
58 villages[;]. [such general laws] SUCH LAWS  
59 shall limit their rate of [general] AD VALOREM  
60 property taxation for municipal purposes, and

1 restrict [their] THE powers of CITIES AND  
2 VILLAGES TO borrow[ing] money and con-  
3 tract[ing] debts. Each city and village is granted  
4 power to levy other taxes for public purposes,  
5 subject to limitations and prohibitions provided  
6 by this constitution or by law.

7 Sec. 22. Under general laws the electors of  
8 each city and village shall have the power and  
9 authority to frame, adopt[,] and amend its  
10 charter, and to amend an existing charter of the  
11 city or village heretofore granted or enacted by  
12 the legislature for the government of the city or  
13 village. Each such city and village shall have  
14 power to [pass] ADOPT resolutions and ordinances  
15 relating to its municipal concerns, property and  
16 government, subject to the constitution and law.  
17 No enumeration of powers granted to cities and  
18 villages in this constitution shall [be deemed to]  
19 limit or restrict the general grant of authority  
20 conferred by this section.

21 Sec. 23. Any city or village may acquire, own,  
22 establish and maintain, within or without its  
23 corporate limits, parks, boulevards, cemeteries,  
24 hospitals[,] and all works which involve the public  
25 health or safety.

26 Sec. 24. Subject to this constitution, any city  
27 or village may acquire, own[,] and operate, within  
28 or without its corporate limits, public service  
29 facilities for supplying water, light, heat, power,  
30 sewage disposal and transportation to the munic-  
31 ipality and the inhabitants thereof.

32 Any city or village may sell and deliver heat,  
33 power[, and] OR light without its corporate limits  
34 [to] IN an amount not [to exceed] EXCEEDING  
35 25 percent of that furnished by it within the  
36 corporate limits, except as greater amounts may  
37 be permitted by law; may sell and deliver water  
38 and provide sewage disposal services[,] outside of  
39 its corporate limits in such amount as may be  
40 determined by the legislative body of the city or  
41 village; and may operate transportation lines  
42 [without] OUTSIDE the municipality within such  
43 limits as may be prescribed by law.

44 Sec. 25. No city or village shall acquire any  
45 public utility furnishing light, heat [and] OR  
46 power, or grant any public utility franchise which  
47 is not subject to revocation at the will of the city  
48 or village, unless the proposition shall FIRST have  
49 been approved by [3/5] THREE-FIFTHS of the  
50 electors voting thereon. No city or village may  
51 sell any such public utility unless the proposition  
52 shall FIRST have been approved by a majority  
53 of the electors voting thereon, or a greater num-  
54 ber if the charter shall so provide.

55 Sec. 26. Except as otherwise provided in this  
56 constitution, no city or village shall have the  
57 power to loan its credit for any private purpose  
58 or, except as [authorized] PROVIDED by law, for  
59 any public purpose.

60 Sec. 27. Notwithstanding any other provision

of this constitution the legislature may establish in metropolitan areas additional forms of government or authorities with powers, duties and jurisdictions as the legislature shall provide. Whenever possible, such additional forms of government or authorities shall be designed to perform multi-purpose functions rather than a single function.

Sec. 28. The legislature by general law shall authorize two or more counties, cities, villages, townships or districts, or any combination thereof among other things to: enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government [and with intergovernmental agencies]; lend their credit to one another or any combination thereof as PROVIDED [prescribed] by law in connection with any authorized publicly owned undertaking.

Any other provision of this constitution notwithstanding, an officer or employee of the state or any [of] such unit[s] of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the [above] purposes SET FORTH IN THIS SECTION and shall not be required to relinquish his office or employment by reason of such service.

Sec. 29. No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, city, village or township for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, city, village or township; or to transact local business therein without first obtaining a franchise from the city, village or township. Except as otherwise [authorized] PROVIDED in this constitution the right of all counties, cities, villages and townships to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.

Sec. 30. No franchise or license shall be granted by any city, village or township for a [longer] period LONGER than 30 years.

Sec. 31. The legislature shall not vacate or alter any road, street, alley, or public place under the jurisdiction of any county, township, city or village.

Sec. 32. Any county, township, city, village, authority or school district empowered by the legislature or by this constitution to prepare budgets of estimated expenditures and revenues shall adopt [said] SUCH budgets only after a public hearing in a manner prescribed by law.

Sec. 33. The provisions of this constitution and law concerning cities, villages, counties and townships shall be liberally construed in their favor. Powers granted to counties and townships by this constitution and by law shall include those fairly implied and not [inconsistent with nor] prohibited by this constitution.

## ARTICLE VIII EDUCATION

| Sec.                                                                   | Com.<br>Proposal |
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| 1. Principles .....                                                    | 1a               |
| 2. Legislative duty to public education ..                             | 30a              |
| 3. State Board of Education—Superintendent of Public Instruction ..... | 47a              |
| 4. Higher education appropriations .....                               | 98a              |
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| 6. Other institutions of higher education.                             | 98c              |
| 7. Community and Junior colleges .....                                 | 98d              |
| 8. Instruction programs, etc. ....                                     | 13a              |
| 9. Public libraries, support of .....                                  | 31a              |

## Article VIII Education

Sec. 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Sec. 2. The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to race, creed, religion, color[,] or national origin.

Sec. 3. Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to [degree granting] institutions of higher education GRANTING BACCALAUREATE DEGREES, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies. He shall be the [chief administrative] PRINCIPAL EXECUTIVE officer of a state department of education which shall

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

have powers and duties provided by law.

The state board of education shall consist of [8] EIGHT members[,] WHO [Of the members first elected 2 shall serve for 2 years, 2 for 4 years, 2 for 6 years and 2 for 8 years, and their successors shall be elected for terms of 8 years. Each member] shall be nominated by party conventionS and elected at large FOR TERMS OF EIGHT YEARS as prescribed by law. The governor shall fill any vacancy by appointment for the unexpired term. The governor shall [also] be ex-officio a member of the state board of education without the right to vote.

The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section.

Sec. 4. The legislature shall appropriate MONEYS [funds] to maintain the University of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, by whatever names [said] SUCH institutions may hereafter be known, and other institutions of higher education established by law. The legislature shall be given an annual accounting of all income and expenditures by each of these educational institutions. Formal sessions of governing boards of such institutions shall be open to the public.

Sec. 5. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. [These] EACH board[s] shall have [the] general supervision of [their respective] ITS institution[s] and the control and direction of all expenditures from the institution's funds. EACH BOARD [They] shall, as often as necessary, elect a president of the institution under ITS [their respective] supervision. [who] HE shall be the principal executive officer of the institution, [and] be ex-officio a member of the board [but] without the right to vote[,] and preside at meetings of the board. The board[s] of each institution shall consist of [8] EIGHT members who shall hold office for TERMS OF [8] EIGHT years and who shall be elected [according to] AS PROVIDED BY law. The governor shall fill board

vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as [prescribed] PROVIDED by law.

Sec. 6. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. [and] IT shall, as often as necessary, elect a president of the institution under its supervision. [who] HE shall be the principal executive officer of the institution and be ex-officio a member of the board [but] without the right to vote. The board may elect one of ITS MEMBERS [their number], or may designate the president, to preside at board meetings. Each board of control shall consist of [8] EIGHT members who shall hold office for TERMS OF [8] EIGHT years, NOT MORE THAN TWO OF WHICH SHALL EXPIRE IN THE SAME YEAR, and WHO SHALL be appointed by the governor BY AND WITH THE ADVICE AND CONSENT OF THE SENATE, [in the same manner as executive appointments are provided in this constitution.] Vacancies shall be filled in like manner.

Sec. 7. The legislature shall provide by law for the establishment and financial support of public community and junior colleges[,] which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges[,] which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of [8] EIGHT members who shall hold office for TERMS OF [8] EIGHT years, NOT MORE THAN TWO OF WHICH SHALL EXPIRE IN THE SAME YEAR, and WHO SHALL be appointed by the state board of education. Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex-officio a member of this board without the right to vote.

Sec. 8. Institutions, programs, and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally, or otherwise seriously handicapped shall always be fostered and supported.

Sec. 9. The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof. All fines assessed and collected in the several counties, cities[,] and townships for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law.

# ARTICLE IX FINANCE & TAXATION

| Sec.                                                          | Com.<br>Proposal |
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| 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,<br>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<br>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.<br>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.<br>Proposal |
|------------------------------------|------------------|
| 1. By Legislature .....            | 64a              |
| 2. By Petition of Electors .....   | 65a              |
| 3. Constitutional Convention ..... | 66a              |

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

## Article XII

## Amendment &amp; Revision

Sec. 1. Amendments to this constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by [2/3] TWO-THIRDS of the members elected to and serving in each house on a [yea and nay] vote WITH THE NAMES AND VOTE OF THOSE VOTING entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct. If a majority of electors voting on [such] a proposed amendment approve [such amendment,] THE SAME, it shall become part of the constitution and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved.

Sec. 2. Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected, or 300,000 registered electors, whichever is less. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. The person authorized by law to receive such petition[,] shall[,] upon its receipt[,] determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next GENERAL election. [at which any state officer is to be elected.] Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot [used in such election] shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice

for or against the proposed amendment.

If the proposed amendment is approved by a majority of the electors voting on the question, the proposed amendment shall become part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. IF TWO OR MORE AMENDMENTS APPROVED BY THE ELECTORS AT THE SAME ELECTION CONFLICT, THAT AMENDMENT RECEIVING THE HIGHEST AFFIRMATIVE VOTE SHALL PREVAIL.

Sec. 3. At the general election to be held in the year 1978, and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than [4] FOUR months after the proposal was certified as approved, the electors of each [house of] representative[s] district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate. The delegates so elected shall convene at the SEAT OF GOVERNMENT [capital city] on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. The governor shall appoint a qualified resident of the same district to fill a vacancy in the office of any delegate. [If the legislature shall determine that delegates shall be elected on a partisan basis, the governor shall appoint a qualified resident of the same district and of the same party.] WHO SHALL BE A MEMBER OF THE SAME PARTY AS THE DELEGATE VACATING THE OFFICE IF THE LEGISLATURE PROVIDES FOR PARTISAN ELECTION OF DELEGATES. The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, WITH THE NAMES AND VOTE OF THOSE VOTING [the yeas and nays being] entered in the journal. Any proposed constitution or amendments adopted

by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

## SCHEDULE AND TEMPORARY PROVISIONS

| Sec.                                                             | Com. Proposal |
|------------------------------------------------------------------|---------------|
| 1. Attorney general to recommend necessary laws                  | 44d           |
| 2. Writs, actions, claims, etc. remain effective                 | 44b           |
| 3. Officers continue their duties                                | 44c and 71g   |
| 4. Terms of officers elected November, 1962                      | 68b           |
| 5. Terms of governor, etc. elected 1964. When 4 year terms begin | 80 and 71a    |
| 6. Senate Apportionment                                          | 80            |
| 7. Supreme Court, reduction to seven justices                    | 91a           |
| 8. Judges of Probate, eligible for re-election                   | 96f           |
| 9. Overlapping terms for judiciary                               | 96j           |
| 10. State Board of Education                                     | 47a           |
| 11. Boards of Control                                            | 98c           |
| 12. Educational Boards                                           |               |
| 13. Initial allocation                                           | 71b           |
| 14. Contractual obligations remain in force                      | 6a            |
| 15. Mackinac Bridge refunding                                    | 23b           |
| 16. Constitution submitted to people, when                       | 68a           |
| 17. Constitution submitted to people, manner                     | 68c           |

TO INSURE THE ORDERLY TRANSITION FROM THE CONSTITUTION OF 1908 TO THIS CONSTITUTION THE FOLLOWING SCHEDULE IS SET FORTH TO BE EFFECTIVE FOR SUCH PERIOD AS ITS PROVISIONS REQUIRE.

Sec. 1. The attorney general [of the state] shall recommend to the legislature AS SOON AS PRACTICABLE [at the commencement of the next session] such changes AS MAY BE NECESSARY [in existing laws as may be deemed necessary] to adapt EXISTING LAWS [the same] to this constitution.

Sec. 2. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights [of individuals, partnerships, bodies corporate, and of this state or any subdivision or agency thereof] existing on the effective date [hereof] OF THIS CONSTITUTION shall continue unaffected except as modified in accordance with the provisions of this constitution.

Sec. 3. Except as otherwise provided in this constitution, all officers filling any office by election or appointment shall continue to exercise THEIR POWERS AND [the] duties [thereof, according to their respective commissions or appointments,] until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or the laws enacted pursuant thereto.

No provision of this constitution, or of law or of executive order authorized by this constitution shall shorten the term of any person elected to state office at a statewide election ON [in] or prior to THE DATE ON WHICH THIS CONSTITUTION IS SUBMITTED TO A VOTE. [November, 1962.] In the event the duties of any [of] such officers shall not have been ABOLISHED OR incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated OR ABOLISHED.

Sec. 4. All officers elected [on the Tuesday after the first Monday of November, 1962] AT THE SAME ELECTION THAT THIS CONSTITUTION IS SUBMITTED TO THE PEOPLE FOR ADOPTION [under the 1908 Constitution as amended and existing laws] shall take office [on and after the first day of January, 1963,] and complete the term to which they were elected UNDER THE 1908 CONSTITUTION AND EXISTING LAWS AND CONTINUE TO SERVE UNTIL THEIR SUCCESSORS ARE ELECTED AND QUALIFIED PURSUANT TO THIS CONSTITUTION OR LAW.

Sec. 5. Notwithstanding any other provision in this constitution, the governor, THE lieutenant governor, THE secretary of state [and], THE attorney general, AND state senators shall be elected at the general election in 1964 to serve for [2] TWO year terms beginning on the first day of January next succeeding their election. The first [4 year] election OF SUCH OFFICERS FOR FOUR-YEAR TERMS under this constitution shall be held at the general election in 1966.

Sec. 6. The state shall be districted for the purpose of electing senators in accordance with the provisions of [Committee Proposal 80, section a,] ARTICLE IV, SECTION 2 after the official publication of the total population count of the 1970 decennial federal census. Until the [re]apportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution[, as amended,] shall remain intact except that upon the adoption of this constitution each of the counties of Kent, Genesee, Macomb and Oakland shall be divided by the apportionment commission into [2] TWO senatorial districts and Wayne county into [8] EIGHT senatorial districts in accordance with this constitution.

Sec. 7. [A vacancy hereafter created as the result of the death, retirement or resignation of one incumbent justice shall not be filled.]

NOTWITHSTANDING THE PROVISIONS OF THIS CONSTITUTION THAT THE SUPREME COURT SHALL CONSIST OF SEVEN JUSTICES IT SHALL CONSIST OF EIGHT JUSTICES UNTIL THE TIME THAT A VACANCY OCCURS AS A RESULT OF DEATH, RETIREMENT OR RESIGNATION OF A JUSTICE. THE FIRST SUCH VACANCY SHALL NOT BE FILLED.

Sec. 8. Any [supreme court justice, circuit judge,] judge of probate serving [at] ON the [time this constitution becomes] effective DATE OF THIS CONSTITUTION may serve the remainder of the term and be eligible TO SUCCEED HIMSELF for election [to his present office] regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

Sec. 9. The provisions of [this] Article VI providing that terms of JUDICIAL offices shall not all expire at the same time, shall be implemented BY LAW PROVIDING THAT at the next election for such offices [by legislation providing for elections] JUDGES SHALL BE ELECTED for terms of varying length, none of which shall be shorter than the [basic] REGULAR term provided for the office.

Sec. 10. THE MEMBERS OF THE STATE BOARD OF EDUCATION PROVIDED FOR IN ARTICLE VIII SECTION 3 SHALL FIRST BE ELECTED AT THE FIRST GENERAL ELECTION AFTER THE EFFECTIVE DATE OF THIS CONSTITUTION FOR THE FOLLOWING TERMS: TWO SHALL BE ELECTED FOR TWO YEARS, TWO FOR FOUR YEARS, TWO FOR SIX YEARS, AND TWO FOR EIGHT YEARS AS PRESCRIBED BY LAW.

THE STATE BOARD OF EDUCATION PROVIDED FOR IN THE CONSTITUTION OF 1908 IS ABOLISHED AT TWELVE O'CLOCK NOON JANUARY 1 OF THE YEAR FOLLOWING THE FIRST GENERAL ELECTION UNDER THIS CONSTITUTION AND THE TERMS OF MEMBERS THEREOF SHALL THEN EXPIRE.

Sec. 11. THE PROVISIONS OF THIS CONSTITUTION PROVIDING FOR MEMBERS OF BOARDS OF CONTROL OF INSTITUTIONS OF HIGHER EDUCATION AND THE STATE BOARD OF PUBLIC COMMUNITY AND JUNIOR COLLEGES SHALL BE IMPLEMENTED BY LAW. THE LAW MAY PROVIDE THAT THE TERM OF EACH MEMBER IN OFFICE ON THE DATE OF THE VOTE ON THIS CONSTITUTION MAY BE EXTENDED, AND MAY FURTHER PROVIDE THAT THE INITIAL TERMS OF OFFICE OF MEMBERS MAY BE LESS THAN EIGHT YEARS.

Sec. 12. THE PROVISIONS OF THIS CONSTITUTION INCREASING THE NUMBER OF MEMBERS OF THE BOARD OF TRUSTEES OF MICHIGAN STATE UNIVERSITY AND OF THE BOARD OF GOVERNORS OF WAYNE STATE UNIVERSITY TO EIGHT, AND OF THEIR TERMS OF OFFICE TO EIGHT YEARS, SHALL BE IMPLEMENTED BY LAW. THE LAW MAY PROVIDE THAT THE TERM OF EACH MEMBER IN OFFICE ON THE DATE OF THE VOTE ON THIS CONSTITUTION MAY BE EXTENDED ONE YEAR, AND MAY FURTHER PROVIDE THAT THE INITIAL TERMS OF OFFICE OF THE ADDITIONAL MEMBERS MAY BE LESS THAN EIGHT YEARS.

Sec. 13. The initial allocation of departments by law pursuant to Article V, Section 2 shall be completed within two years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make the initial allocation.

Sec. 14. Contractual obligations of the state incurred pursuant to the constitution of 1908 [as amended] shall continue to be obligations of the state.

For the retirement of [such] notes and bonds [as may have been] issued under Section 26 of Article X of the 1908 constitution, there is hereby appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each [such] year.

Sec. 15. [Provided however, That] The legislature [is authorized to provide by general law adopted] by a vote of [2/3] TWO-THIRDS of the members elected to and serving in each house MAY PROVIDE THAT THE STATE MAY [for the] borrow[ing of] money AND MAY PLEDGE ITS FULL FAITH AND CREDIT for [the] refunding [of] any bonds issued by the Mackinac Bridge Authority[,] AND at [which] THE time OF REFUNDING the Mackinac Bridge Authority [Act] shall be [repealed] ABOLISHED and the operation of the bridge SHALL be assumed by the state highway department. THE LEGISLATURE MAY IMPLEMENT THIS SECTION BY LAW.

Sec. 16. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the Tuesday after the first Monday of November, 1962. It shall be the duty of the secretary of state forthwith to give notice of such submission to all other officers required to give or publish any notice in regard to A GENERAL [such] election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.

Sec. 17. Every registered elector may vote



1 on the adoption of the constitution. The board  
 2 of election commissioners in each county shall  
 3 cause to be printed on a ballot separate from  
 4 the ballot containing the names of the nominees  
 5 for office, the words: ["] Shall the revised con-  
 6 stitution be adopted? ( ) Yes. ( ) No. ["] All  
 7 votes cast at THE [this] election shall be taken,  
 8 counted, canvassed and returned as provided by

law for the election of state officers. [Should]  
 IF the revised constitution so submitted receiveS  
 more votes in its favor than were cast against  
 it, it shall be the supreme law of the state on  
 and after the first day of January OF THE YEAR  
 FOLLOWING ITS ADOPTION [,1963, except as  
 otherwise provided in this constitution].

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

appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or for any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and shall report the reasons for such removal or suspension to the legislature.

*Following is section 28 of article V, as amended and passed:*

Sec. 28. There is hereby established a civil rights commission which shall consist of eight persons, not more than four of whom shall be members of the same political party, who shall be appointed by the governor, by and with the advice and consent of the senate, for four-year terms not more than two of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

Appeals from final orders of the commission, including cease and desist orders and refusals to issue complaints, shall be tried de novo before the circuit court of the state having jurisdiction provided by law.

*Following is explanation of vote submitted by Messrs. Austin, Sablich, Bradley, Wilkowski, Downs, Hodges, Madar, Marshall, Walker, Stopczynski, Young, Faxon, Buback, T. S. Brown, Baginski, Binkowski and Miss Hart:*

We voted no on article V, the executive branch, because this builds in the conflict between the governor and the state senate. The executive cannot make a single appointment under this article without the advice and consent of the senate — a senate which does not and can not represent people because of the lack of equitable apportionment. Thus, the governor is restricted and limited and must make decisions on appointments on the basis of confirmability with an actual minority, rather than ability to serve the people of the state.

The present elected highway commissioner has been replaced by a 4 headed bipartisan staggered body, selected with advice and consent, that in turn selects a director. This has neither the advantages of an elected system, nor that of an appointed system directly by the governor. Michigan's present superior highway system can seriously suffer from this unwarranted change.

The state treasurer is no longer elected, but is appointed with advice and consent, and as such will be subject to control in appointment by a majority of the legislators representing a minority of the people of the state. The section dealing on the executive budget (section 19) will practically mandate the governor to reduce expenditures in unearmarked areas if state revenues decline, with the approval of legislative appropriating committees. This too will be a built in conflict between a governor with social responsibilities and a legislative committee that is not truly representative of all the people.

Because highways and local units of government have earmarked funds, whereas schools and social services do not, there will be terrific pressures in a period of economic decline, when tax revenues are least and social needs are the greatest, for the governor to cut expenditures for legisla-

tion, mental health, education, and social services to meet requirements of this section.

We, therefore, voted no on this article.

VICE PRESIDENT HUTCHINSON (continuing): The secretary will read article VI, judicial branch.

SECRETARY CHASE: **Article VI**, judicial branch:

[Article VI, sections 1 through 29, was read by the secretary. For the text, see above, page 3060.]

VICE PRESIDENT HUTCHINSON: Article VI has been read a third time.

SECRETARY CHASE: Mr. Cudlip, on behalf of the committee on style and drafting, requests that the following corrections be made in article VI of the proposed revision of the constitution:

| sec- | col- | line | Corrections                          |
|------|------|------|--------------------------------------|
| 2    | 1    | 57   | After "[except]" delete "that".      |
| 2    | 1    | 57   | Change "ANY" to "Any".               |
| 10   | 1    | 3    | After "[" insert "as".               |
| 18   | 2    | 38   | After "court" insert "[such]".       |
| 18   | 2    | 38   | At end of line, change "an" to "AN". |

VICE PRESIDENT HUTCHINSON: Without objection it is so ordered. [Corrections made above.] The secretary will report the amendments.

SECRETARY CHASE: Mr. W. F. Hanna [and Mr. Higgs] offers the following amendment:

1. Amend article VI, section 26 (first column, line 39) after "jurisdiction" by inserting a comma and "compensation"; so the language will read, "Their jurisdiction, compensation and powers within this period shall be as provided by law."

VICE PRESIDENT HUTCHINSON: Mr. Hanna.

MR. W. F. HANNA: Mr. President and fellow delegates, I want to raise a problem which, unfortunately, I did not catch on first or second reading and it was not until we were going over this matter carefully in style and drafting last week that I saw what I believe to be a serious problem and a serious inconsistency, and I bring it to the attention of the convention. We have provided that upon the adoption of this constitution, or the effective date of this constitution, that no judicial officer shall be compensated by fees or anything based upon the volume of his business, but it is said that he must be paid a salary. We now then come to section 26, where we have continued in office these offices of circuit court commissioner and justice of the peace, which are in fact officers that in the main have been compensated by fees of their office and dependent upon the volume of activity.

Now I want to raise 3 problems with this conflict as I see it: first is the practical impossibility, if this constitution goes into effect on January first of a given year. In the townships the fiscal year is from April 1 to April 1, and in counties the fiscal year will have commenced before the effective date of the constitution. There will be no money appropriated; there will be no money out of which you can pay circuit court commissioners a salary or a justice of the peace a salary. Therefore, you are asking these people to serve completely without compensation. Secondly, under the present state law, each township elects 2 justices of the peace. Certainly, you will have to provide in all due process that the 2 justices will receive the same salary. And in many, many, many townships that have 2 justices, one justice maintains an active calendar and open docket and the other has no open calendar, no docket, and is purely an honorary type of office. To set a salary commensurate for these 2 men that is the same immediately penalizes the man who has been doing the work and benefits the man who does not do the work, and so far there is nothing in this constitution that makes a justice of the peace maintain a docket, hold office, or perform any judicial function. Therefore, until this whole matter can be worked out, this man can sit there and draw a salary and not do anything. So that you have a practical fiscal problem in the efforts to do this.

Now, the second problem that I want to raise is breach of contract. We have elsewhere provided in this constitution that you

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

cannot change the compensation during a term of office and yet we are by this constitution changing the compensation of any circuit court commissioner or justice of the peace as he proceeds through his term of office if this constitution is put into effect. One day he is compensated by the volume of his business according to statute and the next day he is without compensation or he is compensated by a salary. This salary may be entirely different than his compensation and we have been very careful in the past, and the lawyers in particular, to provide that you cannot reduce or change the compensation of jurists and especially to reduce, and this conceivably could be a serious reduction.

The third thing that I would like to raise and which I think is very important: you are giving the legislature 5 years to work out the system of inferior courts. If you make the legislature fight 2 battles: the first, immediately upon the adoption of this constitution or just before the adoption of this constitution, to pass a law governing salaries of circuit court commissioners and justices of the peace; and then within 5 years make them reorganize the court system, you are asking them to fight the battle twice. If they fight the battle before this constitution becomes effective, you are going to make a lot of people mad and you are turning over to the legislature the power of deciding this constitution. If you wait 'til afterwards, after the constitution becomes effective, you run into the problem that the justices and circuit court commissioners cannot be compensated.

I do not believe the legislature, in attempting to get a good 5 tier or inferior court system, should fight the battle twice. They should fight the battle once. They should set up an intelligent lower court system and provide the salaries or how they are to be paid. I urge that you insert the word "compensation" so that until the legislature reorganizes the lower tier of the court system, the compensation, jurisdiction and powers will be as provided by law during that period.

VICE PRESIDENT HUTCHINSON: Mr. Everett.

MR. EVERETT: Mr. President and fellow delegates, throughout the debates on the judicial article I think it was apparent that many people very sincerely believe that the justices of the peace serve a function for the people in their communities, but I do not recall that anybody in the debates suggested that the fee system could be defended. And I do know that within our committee no one — no one — appeared before us who would defend it, not even the justices of the peace themselves. When they came before us as an organized group they first said they would like to keep it but they admitted openly that it was not something which the people of this state were willing to put up with or should have to put up with. Now, this is what the effect of the amendment would be: to preserve it for a maximum of 5 years, possibly less.

Mr. Hanna suggests there are practical problems to this, and I submit that there are practical answers to those problems. First of all, the revenue which now exists which comes to the justices as their personal property are the fees which arise out of litigation before them. Now this money, if it is turned over to the township as it presumably would be, would be available to pay them and, as a matter of fact, many townships — many townships — would make money on the operation. Now I don't think courts ought to be operated to make money but, on the other hand, the revenue is there and it is not going to create the practical problem he suggests.

He says that both justices must be paid the same salary. This does not necessarily follow, because the township would have the right to insist, through legislative action, of course — and I think they undoubtedly would insist — that in order to collect any salary a judge would have to hold court, have to be open certain hours, and so forth. Almost all municipalities in their charters now do provide this, and the judge is not paid if he doesn't work. So that if they were to collect the same salary, it would be because they were rendering the same services. If they didn't render the same services, they would not collect the same salary.

He suggests that there is a contract. Now I think Mr. Hanna is well aware that no elected official has a contract guaranteeing him any return for his services. The reason why the constitution has always provided that judicial salaries may not be reduced

is to protect the judges against retribution, to protect them against the legislative body — whether it be the city or the state — punishing them for their judicial acts and taking away their salary as a means of affecting their judicial deliberations, and this certainly is not in question here.

What we have done in the judicial article with the amendments which were adopted here in the convention is to provide for an orderly transition. We have immediately eliminated the one area which nobody, to this date at least, has defended: the fee system. We have provided 5 years in which the legislature — a maximum of 5 years — in which it may create a substitute for the justice of the peace system and, in fact, that substitute in some areas may very well be something very much resembling the present justice of the peace system; but it is an orderly transition.

If we now change it, if we now say that the fee system will continue in existence, we have broken down the transition period; we have simply provided that there must be, as Mr. Hanna says, a full fledged fight. Who is it they are fighting? They are not fighting the people of this state. I don't think that any of you can in sincerity say that the people in your area want the fee system. We have many people who have said they want the justice of the peace system and I bow to your good judgment. You know the people in your area. But I don't think that any man here can honestly say that the people in his district or area want the fee system; they do not want it. They want it eliminated. And it seems to me that we are interfering very seriously with a well planned and well conceived manner of moving from the present to the future, which has developed not only in committee work, not only in the considerable debates, discussions, and agreements reached in committee of the whole but in the convention itself, and I would oppose this amendment.

VICE PRESIDENT HUTCHINSON: There are 6 speakers seeking recognition. Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I move to limit further debate on the amendment to 12 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate to 12 minutes. All those in favor will say aye. Those opposed will say no.

The motion prevails. Debate is so limited. Mr. Higgs is next recognized.

MR. HIGGS: Mr. President and fellow delegates, I have substantially the same amendment in and I wonder if Mr. Hanna would object to my being made a cosponsor of his amendment?

VICE PRESIDENT HUTCHINSON: No objection. [Correction made above.]

MR. HIGGS: Speaking as a member of both the judiciary committee and style and drafting, and speaking also as an opponent of the justice of the peace system, I would nevertheless like to urge that you support this amendment for the practical reasons stated by Mr. Hanna.

Very frankly, this problem did not come to my attention until the style and drafting committee had it under examination and the conflict became apparent with regard to section 17: we had provided no saving clause for this limited period of time. This was not my intention. It is my understanding that on the judiciary committee there is a difference of opinion. It escaped me. I felt that we were going to provide this 5 year period in order to give the legislature a fair opportunity to adequately examine and work out a system of courts of limited jurisdiction. I feel that by putting the pressure on — the heat, so to speak — we will not be giving them a fair opportunity to examine and work out this problem. I urge that you support this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, if you will hearken back to the time when we were on general orders and when the original proposal was reported out, you will recall that the particular section now under discussion was not included in the committee report. At that time the committee report was silent as to the lower courts and left the matter solely to the legislature. But at the time it was reported out — both myself and, as I recall, every other member of the committee including Mr. Ford — as Mr. Everett has stated, no one had appeared before our committee defending the fee system.

We felt that the fee system should be abolished and at that time we didn't even have a 5 year provision. There was no dissenting vote within the committee at the time that it came to the floor, because the provision we are now discussing is the so called Pugsley amendment and yet even Judge Pugsley and others who sponsored that, who sat on the committee, recognized that if there was an evil it was in the fee system.

My friend, Mr. Hanna, from Muskegon, makes eloquent argument that there are practical problems. I will agree. I submit that there are practical statutory problems throughout all of this constitution. The statutes are going to have to be written and rewritten in many, many cases immediately upon the adoption of this particular constitution. The attorney general is charged with drawing up those statutes. I can only state, on behalf of the committee, that we felt the fee system should be outlawed. I recognize that there will have to be action for a setting of the salaries on a state level, but the justices of the peace themselves indicated they were willing to accept a salary. The president of their organization appeared before our committee and stated they had no objection to serving under a salary.

I realize that perhaps it only would last for 5 years in view of the 5 year provision, but I feel that on behalf of the committee I must state that it was, at least I thought, the unanimous or near unanimous decision of the committee that the fee system as such for all courts — and it could come back in the probate court — should be abolished. Therefore, on behalf of the committee, I would urge the rejection of the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Prettie.

MR. PRETTIE: Mr. President, I would like to ask Mr. Hanna a question. It has been touched upon somewhat tangentially, but section 17 appears to abolish the fee system immediately upon the effective date of this constitution. If your amendment were adopted, would it not be necessary, Mr. Hanna, to obviate that inconsistency by some further amendment to section 17?

MR. W. F. HANNA: Mr. President, Mr. Prettie and fellow delegates, I am relying on the interpretation that we have made in style and drafting that by inserting "compensation" that it would remain the same as provided by law and would allow fees to be continued during this 5 year period. If the word "compensation" would be construed to require a salary, then we would have to correct it in style and drafting, but the import of my amendment, "compensation," is that they would be allowed to continue receiving a pay based upon fees during the interim.

MR. PRETTIE: Well, Mr. President and Mr. Hanna, it seems to me that the provisions of section 17, upon adoption of this constitution, would have to be given the same dignity as the word "compensation" proposed to be added by Mr. Hanna's amendment and that there is very patently an inconsistency there which flies in the face of the near unanimous decision of the committee on judicial branch that the fee system should be abolished if this constitution be adopted. I therefore oppose the proposed amendment.

VICE PRESIDENT HUTCHINSON: Mr. Dehnke.

MR. DEHNKE: Mr. President and fellow delegates, if I were as sure as Mr. Everett seems to be that there would be some provision for paying these continuing officers until the legislature gets around to setting up the new courts, I would not be concerned. This is not a matter of perpetuating fees. The trouble is that if this word is not put into the constitution we may find ourselves in the situation where we are not able to provide either fees or any other type of compensation for the justices of the peace.

The day after this constitution becomes effective, if it is approved, there will be demands made on justices of the peace all around the state, where they do not have municipal courts, for the issuance of warrants, for the holding of examinations, and the doing of all the other things that are within the jurisdiction of the justices of the peace; and without this word "compensation" in there, it would be purely speculation to assume that the boards of supervisors — this money being paid into the county and not to townships — would consider themselves authorized to pay compensation. This is merely a stop-gap measure to assure that we will not run into that situation

of no provision made for any type of compensation either salary or fees.

Now as far as the point raised by Delegate Prettie is concerned, if there should be considered to be a technical conflict between section 26 and section 17, I think the answer would be in the rule that where there is a specific proviso pertaining to some specific situation, that takes precedence over a general situation. None of us are advocating the continuance of the fee system. The only thing we are trying to avoid is this possibility, this awkward situation that might develop that while we are waiting for a year or 2 — certainly not longer than 5 years — for the legislature to set up the new courts, there may be no legitimate way of paying the justices or other officers or the circuit court commissioners, who would be expected to perform their functions even though there is no assurance of any kind of compensation. I therefore favor the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Radka.

MR. RADKA: Judge Dehnke has said everything that I would want to say. This amendment is just a practical solution to a real problem and isn't going to hurt anyone. I am not trying to preserve the fee system and would not speak for it. I think that all we are doing here is just looking at the realism of providing some compensation for the interim period for justices.

VICE PRESIDENT HUTCHINSON: Mr. Stevens.

MR. STEVENS: Mr. President, may I ask Mr. Hanna a question, through the Chair?

VICE PRESIDENT HUTCHINSON: You may.

MR. STEVENS: Mr. President, Mr. Hanna, I am somewhat confused and may have misunderstood you. I thought you said the constitution prevented reduction of compensation. We all know, of course, about reduction of salaries of judicial officers. Is that what you had in mind? I mean is there anything in the constitution which prevents reduction of compensation if it is not a salary?

MR. W. F. HANNA: Well, I think the proposed constitution has to be read in the light of the fact that they do provide that in the future all judges will receive a salary and not be compensated by the volume. So that the general philosophy is what I referred to: that you should not change a judge's compensation or salary during his term of office.

MR. STEVENS: Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Hanna now has the floor.

MR. W. F. HANNA: Mr. President and fellow delegates, Mr. Everett made a statement that showed to me the problem which the judiciary committee did not consider. He stated in his argument that these fees and costs assessed by justices or circuit court commissioners are turned over to the townships. Mr. Everett, I submit to you that this is not so and has never been so, except in the case of charter townships. This money is paid to the county and justices of the peace, for purposes of compensation, are considered county officers and not township, although they are elected on a township basis.

I want to point out to you, Mr. Everett, that you cannot spend money, although you have it in the treasury, unless there is an appropriation; and between the annual meeting in April prior to the effective date of this constitution and January first, when this constitution would go into effect, until the following April there would be a period of 3 months plus about one week to 10 days in which there would be no appropriation out of which money could be expended. You are, by your action in the judicial committee, saying that justices of the peace should serve at least for 4 months — 3 months and 10 days — without any compensation. The same applies to the county budget. You may have all kinds of money in a budget, but you cannot expend it unless it is appropriated according to the budget adopted by the board of supervisors or by the township board or by the annual meeting.

Now, secondly, you said that they could set different salaries for justices and you said that they could base it on the volume of business, how often they held court, and so forth. There is no statutory authority for the —

VICE PRESIDENT HUTCHINSON: You may complete your sentence, anyway. The time has expired. The question is upon the amendment offered by Mr. William F. Hanna and Mr. Higgs,

which has been read. All those in favor will say aye. Opposed will say no.

The amendment is adopted.

DELEGATES: Division.

VICE PRESIDENT HUTCHINSON: Division is called for. Is the demand for division supported? It is supported, 10 or more members supporting it. The question is upon the amendment. A division is ordered. All those in favor of the amendment will vote aye. Those opposed will vote no.

MR. HEIDEMAN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Heideman.

MR. HEIDEMAN: The yeas and nays.

VICE PRESIDENT HUTCHINSON: You may still vote—oh, you demand the yeas and nays?

MR. HEIDEMAN: Yes.

VICE PRESIDENT HUTCHINSON: Mr. Heideman demands the yeas and nays upon this amendment. Is the demand supported?

SECRETARY CHASE: Fifteen.

VICE PRESIDENT HUTCHINSON: Not a sufficient number up. The question is a division vote. Have you all voted? If so, the secretary will lock the machine and record the total.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. W. F. Hanna and Mr. Higgs, the yeas are 82; the nays are 39.

VICE PRESIDENT HUTCHINSON: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Danhof offers the following amendment:

1. Amend article VI, section 28 (column 2, line 4) after "rights" by striking out "or licenses"; so that the language will read:

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, shall be subject to direct review by the courts as provided by law.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Because we have been through the argument on this one several times, I move to limit debate to 10 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate upon this amendment to 10 minutes. All those in favor will say aye. Those opposed will say no.

The motion prevails. Debate is limited. The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. President, let's make it short. We have been through it. The committee recommended that we limit this to "rights" inasmuch as we have gone back and forth between the committees of the whole and the convention. We took out "privileges" last time; we left "rights or licenses" in there. Again, I think, by leaving the word "licenses" in, we do damage to the policing power of the state of Michigan.

We have been through the argument. I offer this solely so that we can have a last vote on it, in view of some of the discussion and vacillation that we had between the committee of the whole and the second reading. I think that it will be well to strike out the word "licenses" and go back to the original committee recommendation. Thank you.

VICE PRESIDENT HUTCHINSON: Mr. Hatch.

MR. HATCH: Mr. President, I rise to a point of order. It is my recollection that on second reading an amendment was offered to strike the phrase "licenses and privileges" and that the amendment was then divided. The one carried, but the amendment concerning the striking of the word "licenses" did not carry, and I question whether this amendment is now in order.

VICE PRESIDENT HUTCHINSON: Mr. Hatch, can you cite the place in the journal? The secretary's staff has made a search for all of these things and, of course, anything that was offered and acted upon in committee of the whole is not encompassed, but matters on second reading were and matters which were raised after the committee of the whole did rise. The secretary does not find that matter among the listed amend-

ments so offered at that point. It may have been in committee of the whole.

MR. YEAGER: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Yeager.

MR. YEAGER: I believe that matter was taken up on second reading because we had a division at the time. I am sure it is in there.

VICE PRESIDENT HUTCHINSON: Well, we could have had a division in committee of the whole.

MR. DANHOF: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Danhof.

MR. DANHOF: I don't know but what we can clear this up. Turn to page 1086 of the journal. It will be in Journal 126. On the bottom of the page 1086, I offered the amendment to strike out "privileges or licenses." The amendment was adopted on a division vote. The yeas were 59; the nays were 57. On the bottom of the page, Mr. Yeager then moved to reconsider the vote by which the amendment had been adopted, "privileges or licenses." He demanded the yeas and nays and the motion to reconsider failed 69 to 52. Then Mr. G. E. Brown offered an amendment to reinsert "or licenses." Mr. Van Dusen then made a point of order that, since the amendment had been divided, the amendment was out of order, but the Chair ruled that it was in order. The amendment, I think, passed by one vote.

I think that at this time, in view of the action on second reading, that a motion to strike the particular words "or licenses" would be properly before the house, that specific question, to my knowledge, having not been considered.

MR. HATCH: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Mason states in section 401, paragraph 4:

An amendment which would put before the house a question identical with one previously decided by the house during the session, whether in an affirmative or a negative form, is not in order.

Journal 126, on page 1087, shows that the amendment to reinsert "or licenses" prevailed. This amendment now would strike it out. It would seem to the Chair that this present amendment simply puts negatively what was positively put before, and Mr. Mason's book says that "... whether in an affirmative or a negative form, is not in order." It would seem as though, under that set of circumstances, that the point of order is well taken, Mr. Danhof.

MR. DANHOF: I shall not debate the order. I mentioned it because we had had it. I will accept the ruling of the Chair.

VICE PRESIDENT HUTCHINSON: The Chair will sustain the point of order. The secretary will read the next amendment.

SECRETARY CHASE: Mr. Danhof offers the following amendment to section 28 of article VI, column 2, line 12—

MR. DANHOF: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Danhof.

MR. DANHOF: In view of the previous ruling of the Chair on the particular question of "licenses," I withdraw the amendment.

VICE PRESIDENT HUTCHINSON: The amendment is withdrawn.

SECRETARY CHASE: Messrs. Ford and Garvin offer the following amendment:

1. Amend article VI, section 12 (column 1, line 27) after "term of" by striking out "six" and inserting "eight"; so the language will read:

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 eight years and until their successors are elected and qualified.

MR. VAN DUSEN: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: It seems to me this amendment poses a very simple question. I would move to limit debate to 5 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate upon this amendment to 5 minutes. All those in favor will say aye. Opposed?

The motion prevails. Debate is so limited. The Chair will

*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              | Leibbrand  | Romney          |
| Baginski            | Leppien    | Rood            |
| Barthwell           | Lesinski   | Rush            |
| Batchelor           | Madar      | Sablich         |
| Beamman             | 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 3083.]

**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:

| sec-<br>tion | col-<br>umn | 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 HUTCHINSON:** 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 subdivision" which would cover school districts, charter or other authorities, town-

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

# PREAMBLE

We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

## Article I

### Declaration of Rights

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation.

Sec. 3. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances.

Sec. 4. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Sec. 5. Every person may freely speak, write, express and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be enacted to restrain or abridge the liberty of speech or of the press.

Sec. 6. Every person has a right to keep and bear arms for the defense of himself and the state.

Sec. 7. The military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 8. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sec. 9. Neither slavery, nor involuntary servitude unless for the punishment of crime, shall ever be tolerated in this state.

Sec. 10. No bill of attainder, ex post facto law or law impairing the obligation of contract shall be enacted.

Sec. 11. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation. The provisions of this section shall not be construed to bar from evidence in any criminal proceeding any narcotic drug, firearm, bomb, explosive or any other dangerous weapon, seized by a peace officer outside the curtilage of any dwelling house in this state.

Sec. 12. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

Sec. 13. A suitor in any court of this state has the right to prosecute or defend his suit,

either in his own proper person or by an attorney.

Sec. 14. The right of trial by jury shall remain, but shall be waived in all civil cases unless demanded by one of the parties in the manner prescribed by law. In all civil cases tried by 12 jurors a verdict shall be received when 10 jurors agree.

Sec. 15. No person shall be subject for the same offense to be twice put in jeopardy. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

Sec. 16. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

Sec. 18. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sec. 19. In all prosecutions for libels the truth may be given in evidence to the jury; and, if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

Sec. 20. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 jurors in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; to have an appeal as a matter of right; and in courts of record, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

Sec. 21. No person shall be imprisoned for debt arising out of or founded on contract, express or implied, except in cases of fraud or breach of trust.

Sec. 22. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act or on confession in open court.

Sec. 23. The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

## Article II Elections

Sec. 1. Every citizen of the United States who has attained the age of 21 years, who has resided in this state six months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

Sec. 2. The legislature may by law exclude persons from voting because of mental incompetence or commitment to a jail or penal institution.

Sec. 3. For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than six months and may waive residence requirements for former citizens of this state who have removed herefrom. The legislature shall not permit voting by any person who meets the voting residence requirements of the state to which he has removed.

Sec. 4. The legislature shall enact laws to regulate the time, place and manner of all nominations and elections, except as otherwise provided in this constitution or in the constitution and laws of the United States. The legislature shall enact laws to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames.

Sec. 5. Except for special elections to fill vacancies, or as otherwise provided in this constitution, all elections for national, state, county and township offices shall be held on the first Tuesday after the first Monday in November in each even-numbered year or on such other date as members of the congress of the United States are regularly elected.

Sec. 6. Whenever any question is required to be submitted by a political subdivision to the electors which involves the increase of any ad valorem tax rate limitation for a period of more than five years, or the issue of bonds, only electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or electors who are the lawful husbands or wives of such persons shall be entitled to vote thereon. All electors in the district or territory affected may vote on all other questions.

Sec. 7. A board of state canvassers of four

members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers. A majority of any board of canvassers shall not be composed of members of the same political party.

Sec. 8. Laws shall be enacted to provide for the recall of all elective officers except judges of courts of record upon petition of electors equal in number to 25 percent of the number of persons voting in the last preceding election for the office of governor in the electoral district of the officer sought to be recalled. The sufficiency of any statement of reasons or grounds procedurally required shall be a political rather than a judicial question.

Sec. 9. The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to approve or reject laws enacted by the legislature, called the referendum. The power of initiative extends only to laws which the legislature may enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds and must be invoked in the manner prescribed by law within 90 days following the final adjournment of the legislative session at which the law was enacted. To invoke the initiative or referendum, petitions signed by a number of registered electors, not less than eight percent for initiative and five percent for referendum of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected shall be required.

No law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election.

Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If the law so proposed is not enacted by the legislature within the 40 days, the state officer authorized by law shall submit such proposed law to the people for approval or rejection at the next general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by such state officer to the electors for approval or rejection at the next general election.

Any law submitted to the people by either initiative or referendum petition and approved by

a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No law initiated or adopted by the people shall be subject to the veto power of the governor, and no law adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors or three-fourths of the members elected to and serving in each house of the legislature. Laws approved by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. If two or more measures approved by the electors at the same election conflict, that receiving the highest affirmative vote shall prevail.

The legislature shall implement the provisions of this section.

### Article III

#### General Government

Sec. 1. The seat of government shall be at Lansing.

Sec. 2. The powers of government are divided into three branches: legislative, executive and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.

Sec. 3. There shall be a great seal of the State of Michigan and its use shall be provided by law.

Sec. 4. The militia shall be organized, equipped and disciplined as provided by law.

Sec. 5. Subject to provisions of general law, this state or any political subdivision, any governmental authority or any combination thereof may enter into agreements for the performance, financing or execution of their respective functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution. Any other provision of this constitution notwithstanding, an officer or employee of the state or of any such unit of government or subdivision or agency thereof may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service. The legislature may impose such restrictions, limitations or conditions on such service as it may deem appropriate.

Sec. 6. The state shall not be a party to, nor be financially interested in, any work of internal improvement, nor engage in carrying on any such work, except for public internal improvements provided by law.

Sec. 7. The common law and the statute laws now in force, not repugnant to this consti-

tution, shall remain in force until they expire by their own limitations, or are changed, amended or repealed.

Sec. 8. Either house of the legislature or the governor may request the opinion of the supreme court on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date.

#### Article IV Legislative Branch

Sec. 1. The legislative power of the State of Michigan is vested in a senate and a house of representatives.

Sec. 2. The senate shall consist of 38 members to be elected from single member districts at the same election as the governor for four-year terms concurrent with the term of office of the governor.

In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned an apportionment factor equal to the sum of its percentage of the state's population as shown by the last regular federal decennial census computed to the nearest one-one hundredth of one percent multiplied by four and its percentage of the state's land area computed to the nearest one-one hundredth of one percent.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties is entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.

(2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there is a failure to comply with the above standards.

(3) Counties entitled to two or more senate districts shall be divided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

Sec. 3. The house of representatives shall consist of 110 members elected for two-year terms from single member districts apportioned on a basis of population as provided in this article. The districts shall consist of compact and convenient territory contiguous by land.

Each county which has a population of not less than seven-tenths of one percent of the population of the state shall constitute a separate representative area. Each county having less than seven-tenths of one percent of the population of the state shall be combined with another county or counties to form a representative area of not less than seven-tenths of one percent of the population of the state. Any county which is isolated under the initial allocation as provided in this section shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one representative.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to two or more representatives shall be divided into single member representative districts as follows:

(1) The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the representative area by the number of representatives to which it is entitled.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population adhering to county lines.

Sec. 4. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial dis-



1 | trict in the city with which it is combined, if  
2 | provided by ordinance of the city. The district  
3 | or districts with which the territory shall be  
4 | combined shall be determined by such ordinance  
5 | certified to the secretary of state. No such change  
6 | in the boundaries of a representative or senatorial  
7 | district shall have the effect of removing a legis-  
8 | lator from office during his term.

9 | Sec. 5. Island areas are considered to be con-  
10 | tiguous by land to the county of which they are  
11 | a part.

12 | Sec. 6. A commission on legislative apportion-  
13 | ment is hereby established consisting of eight  
14 | persons, four of whom shall be selected by the  
15 | state organizations of each of the two political  
16 | parties whose candidates for governor received  
17 | the highest vote at the last general election at  
18 | which a governor was elected preceding each ap-  
19 | portionment. If a candidate for governor of a third  
20 | political party has received at such election more  
21 | than 25 percent of such gubernatorial vote, the  
22 | commission shall consist of 12 members, four of  
23 | whom shall be selected by the state organization of  
24 | the third political party. One member of the com-  
25 | mission shall be selected by each political party or-  
26 | ganization from each of the following four regions:  
27 | (1) The upper peninsula; (2) The northern part of  
28 | the lower peninsula, north of a line drawn along  
29 | the northern boundaries of the counties of Bay,  
30 | Midland, Isabella, Mecosta, Newaygo and Oceana;  
31 | (3) Southwestern Michigan, those counties south  
32 | of region (2) and west of a line drawn along  
33 | the western boundaries of the counties of Bay,  
34 | Saginaw, Shiawassee, Ingham, Jackson and Hills-  
35 | dale; (4) Southeastern Michigan, the remaining  
36 | counties of the state.

37 | No officers or employees of the federal, state  
38 | or local governments, excepting notaries public  
39 | and members of the armed forces reserve, shall  
40 | be eligible for membership on the commission.  
41 | Members of the commission shall not be eligible  
42 | for election to the legislature until two years after  
43 | the apportionment in which they participated  
44 | becomes effective.

45 | The commission shall be appointed immediately  
46 | after the adoption of this constitution and when-  
47 | ever apportionment or districting of the legislature  
48 | is required by the provisions of this constitution.  
49 | Members of the commission shall hold office until  
50 | each apportionment or districting plan becomes  
51 | effective. Vacancies shall be filled in the same  
52 | manner as for original appointment.

53 | The secretary of state shall be secretary of  
54 | the commission without vote, and in that capacity  
55 | shall furnish, under the direction of the commis-  
56 | sion, all necessary technical services. The com-  
57 | mission shall elect its own chairman, shall make  
58 | its own rules of procedure, and shall receive com-  
59 | pensation provided by law. The legislature shall  
60 | appropriate funds to enable the commission to

carry out its activities.

1 | Within 30 days after the adoption of this con-  
2 | stitution, and after the official total population  
3 | count of each federal decennial census of the state  
4 | and its political subdivisions is available, the se-  
5 | cretary of state shall issue a call convening the  
6 | commission not less than 30 nor more than 45  
7 | days thereafter. The commission shall complete  
8 | its work within 180 days after all necessary census  
9 | information is available. The commission shall  
10 | proceed to district and apportion the senate and  
11 | house of representatives according to the provi-  
12 | sions of this constitution. All final decisions shall  
13 | require the concurrence of a majority of the mem-  
14 | bers of the commission. The commission shall hold  
15 | public hearings as may be provided by law.

16 | Each final apportionment and districting plan  
17 | shall be published as provided by law within 30  
18 | days from the date of its adoption and shall be-  
19 | come law 60 days after publication. The secre-  
20 | tary of state shall keep a public record of all the  
21 | proceedings of the commission and shall be re-  
22 | sponsible for the publication and distribution of  
23 | each plan.

24 | If a majority of the commission cannot agree  
25 | on a plan, each member of the commission, indi-  
26 | vidualy or jointly with other members, may sub-  
27 | mit a proposed plan to the supreme court. The  
28 | supreme court shall determine which plan com-  
29 | plies most accurately with the constitutional re-  
30 | quirements and shall direct that it be adopted  
31 | by the commission and published as provided  
32 | in this section.

33 | Upon the application of any elector filed not  
34 | later than 60 days after final publication of the  
35 | plan, the supreme court, in the exercise of origi-  
36 | nal jurisdiction, shall direct the secretary of  
37 | state or the apportionment commission to per-  
38 | form their duties, may review any final plan  
39 | adopted by the commission, and shall remand  
40 | such plan to the commission for further action  
41 | if it fails to comply with the requirements of  
42 | this constitution.

43 | Sec. 7. Each senator and representative  
44 | must be a citizen of the United States, at least  
45 | 21 years of age, and an elector of the district  
46 | he represents. The removal of his domicile from  
47 | the district shall be deemed a vacation of the  
48 | office. No person who has been convicted of sub-  
49 | version or who has within the preceding 20 years  
50 | been convicted of a felony involving a breach  
51 | of public trust shall be eligible for either house  
52 | of the legislature.

53 | Sec. 8. No person holding any office under the  
54 | United States or this state or a political subdivi-  
55 | sion thereof, except notaries public and officers  
56 | of the armed forces reserve, may be a member of  
57 | either house of the legislature.

58 | Sec. 9. No person elected to the legislature  
59 | shall receive any civil appointment within this  
60 |

1 state from the governor, except notaries public,  
2 from the legislature, or from any other state  
3 authority, during the term for which he is elected.

4 Sec. 10. No member of the legislature nor any  
5 state officer shall be interested directly or in-  
6 directly in any contract with the state or any  
7 political subdivision thereof which shall cause a  
8 substantial conflict of interest. The legislature  
9 shall further implement this provision by appro-  
10 priate legislation.

11 Sec. 11. Senators and representatives shall be  
12 privileged from civil arrest and civil process dur-  
13 ing sessions of the legislature and for five days  
14 next before the commencement and after the  
15 termination thereof. They shall not be ques-  
16 tioned in any other place for any speech in either  
17 house.

18 Sec. 12. The compensation and expense al-  
19 lowances of the members of the legislature shall  
20 be determined by law. Changes in compensation  
21 or expense allowances shall become effective only  
22 when legislators commence their terms of office  
23 after a general election.

24 Sec. 13. The legislature shall meet at the seat  
25 of government on the second Wednesday in Janu-  
26 ary of each year at twelve o'clock noon. Each  
27 regular session shall adjourn without day, on a  
28 day determined by concurrent resolution, at  
29 twelve o'clock noon. Any business, bill or joint  
30 resolution pending at the final adjournment of  
31 a regular session held in an odd numbered year  
32 shall carry over with the same status to the  
33 next regular session.

34 Sec. 14. A majority of the members elected  
35 to and serving in each house shall constitute a  
36 quorum to do business. A smaller number in  
37 each house may adjourn from day to day, and  
38 may compel the attendance of absent members in  
39 the manner and with penalties as each house may  
40 prescribe.

41 Sec. 15. There shall be a bi-partisan legisla-  
42 tive council consisting of legislators appointed in  
43 the manner prescribed by law. The legislature  
44 shall appropriate funds for the council's opera-  
45 tions and provide for its staff which shall main-  
46 tain bill drafting, research and other services  
47 for the members of the legislature. The council  
48 shall periodically examine and recommend to the  
49 legislature revision of the various laws of the  
50 state.

51 Sec. 16. Each house, except as otherwise pro-  
52 vided in this constitution, shall choose its own  
53 officers and determine the rules of its proceedings,  
54 but shall not adopt any rule that will prevent a  
55 majority of the members elected thereto and  
56 serving therein from discharging a committee  
57 from the further consideration of any measure.  
58 Each house shall be the sole judge of the quali-  
59 fications, elections and returns of its members,  
60 and may, with the concurrence of two-thirds of

1 all the members elected thereto and serving  
2 therein, expel a member. The reasons for such  
3 expulsion shall be entered in the journal, with  
4 the votes and names of the members voting upon  
5 the question. No member shall be expelled a  
6 second time for the same cause.

7 Sec. 17. Each house of the legislature may  
8 establish the committees necessary for the effi-  
9 cient conduct of its business and the legislature  
10 may create joint committees. Each committee  
11 shall by roll call vote record the vote and name  
12 of all action on bills and resolutions taken in  
13 the committee. Such vote shall be available for  
14 public inspection. Notice of all committee hear-  
15 ings and a clear statement of all subjects to be  
16 considered at each hearing shall be published in  
17 the journal in advance of the hearing.

18 Sec. 18. Each house shall keep a journal of  
19 its proceedings, and publish the same unless the  
20 public security otherwise requires. The record  
21 of the vote and name of the members of either  
22 house voting on any question shall be entered  
23 in the journal at the request of one-fifth of the  
24 members present. Any member of either house  
25 may dissent from and protest against any act,  
26 proceeding or resolution which he deems injuri-  
27 ous to any person or the public, and have the  
28 reason for his dissent entered in the journal.

29 Sec. 19. All elections in either house or in  
30 joint convention and all votes on appointments  
31 submitted to the senate for advice and consent  
32 shall be published by vote and name in the journal.

33 Sec. 20. The doors of each house shall be open  
34 unless the public security otherwise requires.

35 Sec. 21. Neither house shall, without the con-  
36 sent of the other, adjourn for more than two  
37 intervening calendar days, nor to any place other  
38 than where the legislature may then be in session.

39 Sec. 22. All legislation shall be by bill and  
40 may originate in either house.

41 Sec. 23. The style of the laws shall be: The  
42 People of the State of Michigan enact.

43 Sec. 24. No law shall embrace more than one  
44 object, which shall be expressed in its title. No  
45 bill shall be altered or amended on its passage  
46 through either house so as to change its original  
47 purpose as determined by its total content and  
48 not alone by its title.

49 Sec. 25. No law shall be revised, altered or  
50 amended by reference to its title only. The section  
51 or sections of the act altered or amended shall  
52 be re-enacted and published at length.

53 Sec. 26. No bill shall be passed or become a  
54 law at any regular session of the legislature until  
55 it has been printed or reproduced and in the pos-  
56 session of each house for at least five days. Every  
57 bill shall be read three times in each house be-  
58 fore the final passage thereof. No bill shall be-  
59 come a law without the concurrence of a majority  
60 of the members elected to and serving in each

house. On the final passage of bills, the votes and names of the members voting thereon shall be entered in the journal.

Sec. 27. No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.

Sec. 28. When the legislature is convened on extraordinary occasions in special session no bill shall be passed on any subjects other than those expressly stated in the governor's proclamation or submitted by special message.

Sec. 29. The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act shall take effect until approved by two-thirds of the members elected to and serving in each house and by a majority of the electors voting thereon in the district affected. Any act repealing local or special acts shall require only a majority of the members elected to and serving in each house and shall not require submission to the electors of such district.

Sec. 30. The assent of two-thirds of the members elected to and serving in each house of the legislature shall be required for the appropriation of public money or property for local or private purposes.

Sec. 31. The general appropriation bills for the succeeding fiscal period covering items set forth in the budget shall be passed or rejected in either house of the legislature before that house passes any appropriation bill for items not in the budget except bills supplementing appropriations for the current fiscal year's operation. Any bill requiring an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as passed by the legislature shall contain an itemized statement of estimated revenue by major source in each operating fund for the ensuing fiscal period, the total of which shall not be less than the total of all appropriations made from each fund in the general appropriation bills as passed.

Sec. 32. Every law which imposes, continues or revives a tax shall distinctly state the tax.

Sec. 33. Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not be-

come law. If he does not approve, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated. That house shall enter such objections in full in its journal and reconsider the bill. If two-thirds of the members elected to and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by two-thirds of the members elected to and serving in that house. The vote of each house shall be entered in the journal with the votes and names of the members voting thereon. If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it.

Sec. 34. Any bill passed by the legislature and approved by the governor, except a bill appropriating money, may provide that it will not become law unless approved by a majority of the electors voting thereon.

Sec. 35. All laws enacted at any session of the legislature shall be published in book form within 60 days after final adjournment of the session, and shall be distributed in the manner provided by law. The prompt publication of judicial decisions shall be provided by law. All laws and judicial decisions shall be free for publication by any person.

Sec. 36. No general revision of the laws shall be made. The legislature may provide for a compilation of the laws in force, arranged without alteration, under appropriate heads and titles.

Sec. 37. The legislature may by concurrent resolution empower a joint committee of the legislature acting between sessions to suspend until the end of the next regular legislative session any rule or regulation of an administrative agency promulgated when the legislature is not in regular session.

Sec. 38. The legislature may provide by law the cases in which any office shall be vacant and the manner of filling vacancies where no provision is made in this constitution.

Sec. 39. In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state caused by enemy attack on the United States, the legislature may provide by law for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices; and enact other laws necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred by this section, elections shall always

be called as soon as possible to fill any vacancies in elective offices temporarily occupied by operation of any legislation enacted pursuant to the provisions of this section.

Sec. 40. The legislature may by law establish a liquor control commission which, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof. The legislature may provide for an excise tax on such sales. Neither the legislature nor the commission may authorize the manufacture or sale of alcoholic beverages in any county in which a majority of the electors voting thereon shall prohibit the same.

Sec. 41. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

Sec. 42. The legislature may provide for the incorporation of ports and port districts, and confer power and authority upon them to engage in work of internal improvements in connection therewith.

Sec. 43. No general law providing for the incorporation of trust companies or corporations for banking purposes, or regulating the business thereof, shall be enacted, amended or repealed except by a vote of two-thirds of the members elected to and serving in each house.

Sec. 44. The legislature may authorize a trial by a jury of less than 12 jurors in civil cases.

Sec. 45. The legislature may provide for indeterminate sentences as punishment for crime and for the detention and release of persons imprisoned or detained under such sentences.

Sec. 46. No law shall be enacted providing for the penalty of death.

Sec. 47. The legislature may authorize the employment of chaplains in state institutions of detention or confinement.

Sec. 48. The legislature may enact laws providing for the resolution of disputes concerning public employees, except those in the state classified civil service.

Sec. 49. The legislature may enact laws relative to the hours and conditions of employment.

Sec. 50. The legislature may provide safety measures and regulate the use of atomic energy and forms of energy developed in the future, having in view the general welfare of the people of this state.

Sec. 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

Sec. 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other

natural resources of the state from pollution, impairment and destruction.

Sec. 53. The legislature by a majority vote of the members elected to and serving in each house, shall appoint an auditor general, who shall be a certified public accountant licensed to practice in this state, to serve for a term of eight years. He shall be ineligible for appointment or election to any other public office in this state from which compensation is derived while serving as auditor general and for two years following the termination of his service. He may be removed for cause at any time by a two-thirds vote of the members elected to and serving in each house. The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

The auditor general upon direction by the legislature may employ independent accounting firms or legal counsel and may make investigations pertinent to the conduct of audits. He shall report annually to the legislature and to the governor and at such other times as he deems necessary or as required by the legislature. He shall be assigned no duties other than those specified in this section.

Nothing in this section shall be construed in any way to infringe the responsibility and constitutional authority of the governing boards of the institutions of higher education to be solely responsible for the control and direction of all expenditures from the institutions' funds.

The auditor general, his deputy and one other member of his staff shall be exempt from classified civil service. All other members of his staff shall have classified civil service status.

## Article V

### Executive Branch

Sec. 1. The executive power is vested in the governor.

Sec. 2. All executive and administrative offices, agencies and instrumentalities of the executive branch of state government and their respective functions, powers and duties, except for the office of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes.

Subsequent to the initial allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these

changes require the force of law, they shall be set forth in executive orders and submitted to the legislature. Thereafter the legislature shall have 60 calendar days of a regular session, or a full session if of shorter duration, to disapprove each executive order. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, each order shall become effective at a date thereafter to be designated by the governor.

Sec. 3. The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer and an attorney general. When a single executive is the head of a principal department, unless elected or appointed as otherwise provided in this constitution, he shall be appointed by the governor by and with the advice and consent of the senate and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, unless elected or appointed as otherwise provided in this constitution, the members thereof shall be appointed by the governor by and with the advice and consent of the senate. The term of office and procedure for removal of such members shall be as prescribed in this constitution or by law.

Terms of office of any board or commission created or enlarged after the effective date of this constitution shall not exceed four years except as otherwise authorized in this constitution. The terms of office of existing boards and commissions which are longer than four years shall not be further extended except as provided in this constitution.

Sec. 4. Temporary commissions or agencies for special purposes with a life of no more than two years may be established by law and need not be allocated within a principal department.

Sec. 5. At no time shall an examining or licensing board of a profession include less than a majority of members of that profession.

Sec. 6. Appointment by and with the advice and consent of the senate when used in this constitution or laws in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 session days after the date of such appointment. Any appointment not disapproved within such period shall stand confirmed.

Sec. 7. Vacancies in any office, appointment to which requires advice and consent of the senate, shall be filled by the governor by and with the advice and consent of the senate. A person whose appointment has been disapproved by the senate shall not be eligible for an interim appointment

to the same office.

Sec. 8. Each principal department shall be under the supervision of the governor unless otherwise provided by this constitution. The governor shall take care that the laws be faithfully executed. He shall transact all necessary business with the officers of government and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may initiate court proceedings in the name of the state to enforce compliance with any constitutional or legislative mandate, or to restrain violations of any constitutional or legislative power, duty or right by any officer, department or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize court proceedings against the legislature.

Sec. 9. Single executives heading principal departments and the chief executive officers of principal departments headed by boards or commissions shall keep their offices at the seat of government except as otherwise provided by law, superintend them in person and perform duties prescribed by law.

Sec. 10. The governor shall have power and it shall be his duty to inquire into the condition and administration of any public office and the acts of any public officer, elective or appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or for any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and shall report the reasons for such removal or suspension to the legislature.

Sec. 11. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an appointed or elected officer, other than a legislative or judicial officer, until he is reinstated or until the vacancy is filled in the manner prescribed by law or this constitution.

Sec. 12. The governor shall be commander-in-chief of the armed forces and may call them out to execute the laws, suppress insurrection and repel invasion.

Sec. 13. The governor shall issue writs of election to fill vacancies in the senate or house of representatives. Any such election shall be held in a manner prescribed by law.

Sec. 14. The governor shall have power to grant reprieves, commutations and pardons after convictions for all offenses, except cases of impeachment, upon such conditions and limitations as he may direct, subject to procedures and regulations prescribed by law. He shall inform the legislature annually of each reprieve, commutation and pardon granted, stating reasons

therefor.

Sec. 15. The governor may convene the legislature on extraordinary occasions.

Sec. 16. The governor may convene the legislature at some other place when the seat of government becomes dangerous from any cause.

Sec. 17. The governor shall communicate by message to the legislature at the beginning of each session and may at other times present to the legislature information as to the affairs of the state and recommend measures he considers necessary or desirable.

Sec. 18. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, for all operating funds, the proposed expenditures and estimated revenue of the state. Proposed expenditures from any fund shall not exceed the estimated revenue thereof. On the same date, the governor shall submit to the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills to provide new or additional revenues to meet proposed expenditures. The amount of any surplus created or deficit incurred in any fund during the last preceding fiscal period shall be entered as an item in the budget and in one of the appropriation bills. The governor may submit amendments to appropriation bills to be offered in either house during consideration of the bill by that house, and shall submit any bills to meet deficiencies in current appropriations.

Sec. 19. The governor may disapprove any distinct item or items appropriating moneys in any appropriation bill. The part or parts approved shall become law, and the item or items disapproved shall be void unless re-passed according to the method prescribed for the passage of other bills over the executive veto.

Sec. 20. No appropriation shall be a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures authorized by appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based. Reductions in expenditures shall be made in accordance with procedures prescribed by law. The governor may not reduce expenditures of the legislative and judicial branches or from funds constitutionally dedicated for specific purposes.

Sec. 21. The governor, lieutenant governor, secretary of state and attorney general shall be elected for four-year terms at the general election in each alternate even-numbered year.

The lieutenant governor, secretary of state and attorney general shall be nominated by party conventions in a manner prescribed by law. In the general election one vote shall be cast jointly

for the candidates for governor and lieutenant governor nominated by the same party.

Vacancies in the office of the secretary of state and attorney general shall be filled by appointment by the governor.

Sec. 22. To be eligible for the office of governor or lieutenant governor a person must have attained the age of 30 years, and have been a registered elector in this state for four years next preceding his election.

Sec. 23. The governor, lieutenant governor, secretary of state and attorney general shall each receive the compensation provided by law in full payment for all services performed and expenses incurred during his term of office. Such compensation shall not be changed during the term of office except as otherwise provided in this constitution.

Sec. 24. An executive residence suitably furnished shall be provided at the seat of government for the use of the governor. He shall receive an allowance for its maintenance as provided by law.

Sec. 25. The lieutenant governor shall be president of the senate, but shall have no vote except in case of equal division. He may perform duties requested of him by the governor, but no power vested in the governor shall be delegated.

Sec. 26. In case of the conviction of the governor on impeachment, his removal from office, his resignation or his death, the lieutenant governor, the elected secretary of state, the elected attorney general and such other persons designated by law shall in that order be governor for the remainder of the governor's term.

In case of the death of the governor-elect, the lieutenant governor-elect, the secretary of state-elect, the attorney general-elect and such other persons designated by law shall become governor in that order at the commencement of the governor-elect's term.

If the governor or the person in line of succession to serve as governor is absent from the state, or suffering under an inability, the powers and duties of the office of governor shall devolve in order of precedence until the absence or inability giving rise to the devolution of powers ceases.

The inability of the governor or person acting as governor shall be determined by a majority of the supreme court on joint request of the president pro tempore of the senate and the speaker of the house of representatives. Such determination shall be final and conclusive. The supreme court shall upon its own initiative determine if and when the inability ceases.

Sec. 27. The legislature shall provide that the salary of any state officer while acting as governor shall be equal to that of the governor.

Sec. 28. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction



and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as provided by law.

The state highway commission shall consist of four members, not more than two of whom shall be members of the same political party. They shall be appointed by the governor by and with the advice and consent of the senate for four-year terms, no two of which shall expire in the same year as provided by law.

The state highway commission shall appoint and may remove a state highway director, who shall be a competent highway engineer and administrator. He shall be the principal executive officer of the state highway department and shall be responsible for executing the policy of the state highway commission.

Sec. 29. There is hereby established a civil rights commission which shall consist of eight persons, not more than four of whom shall be members of the same political party, who shall be appointed by the governor, by and with the advice and consent of the senate, for four-year terms not more than two of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

Appeals from final orders of the commission, including cease and desist orders and refusals to issue complaints, shall be tried de novo before the circuit court having jurisdiction provided by law.

## Article VI Judicial Branch

Sec. 1. The judicial power of the state is vested exclusively in one court of justice which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction

known as the circuit court, one probate court, and other courts of limited jurisdiction that the legislature may establish by a two-thirds vote of the members elected to and serving in each house.

Sec. 2. The supreme court shall consist of seven justices elected at non-partisan elections as provided by law. The term of office shall be eight years and not more than two terms of office shall expire at the same time. Nominations for justices of the supreme court shall be in the manner prescribed by law. Any incumbent justice whose term is to expire may become a candidate for re-election by filing an affidavit of candidacy, in the form and manner prescribed by law, not less than 180 days prior to the expiration of his term.

Sec. 3. One justice of the supreme court shall be selected by the court as its chief justice as provided by rules of the court. He shall perform other duties required by the court. The supreme court shall appoint an administrator of the courts and other assistants of the supreme court as may be necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.

Sec. 4. The supreme court shall have general superintending control over all courts; power to issue, hear, and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.

Sec. 5. The supreme court shall by general rules establish, modify, amend and simplify the practice and procedure in all courts of this state. The distinctions between law and equity proceedings shall, as far as practicable, be abolished. The office of master in chancery is prohibited.

Sec. 6. Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent.

Sec. 7. The supreme court may appoint, may remove, and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of moneys appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

Sec. 8. The court of appeals shall consist initially of nine judges who shall be nominated and elected at non-partisan elections from districts drawn on county lines and as nearly as possible of equal population, as provided by law. The

supreme court may prescribe by rule that the court of appeals may sit in divisions and for the terms of court and the times and places thereof. Each such division shall consist of not fewer than three judges. The number of judges comprising the court of appeals may be increased, and the districts from which they are elected may be changed by law.

Sec. 9. Judges of the court of appeals shall hold office for a term of six years and until their successors are elected and qualified. The terms of office for the judges in each district shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 10. The jurisdiction of the court of appeals shall be provided by law and the practice and procedure therein shall be prescribed by rules of the supreme court.

Sec. 11. The state shall be divided into judicial circuits along county lines in each of which there shall be elected one or more circuit judges as provided by law. Sessions of the circuit court shall be held at least four times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or counties within the circuit in which he is elected, and in other circuits as may be provided by rules of the supreme court. The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall be created, altered and discontinued on recommendation of the supreme court to reflect changes in judicial activity. No change in the number of judges or alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.

Sec. 12. Circuit judges shall be nominated and elected at non-partisan elections in the circuit in which they reside, and shall hold office for a term of six years and until their successors are elected and qualified. In circuits having more than one circuit judge their terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 13. The circuit court shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court.

Sec. 14. The clerk of each county organized for judicial purposes or other officer performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such

county. The judges of the circuit court may fill a vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions.

Sec. 15. In each county organized for judicial purposes there shall be a probate court. The legislature may create or alter probate court districts of more than one county if approved in each affected county by a majority of the electors voting on the question. The legislature may provide for the combination of the office of probate judge with any judicial office of limited jurisdiction within a county with supplemental salary as provided by law. The jurisdiction, powers and duties of the probate court and of the judges thereof shall be provided by law. They shall have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. 16. One or more judges of probate as provided by law shall be nominated and elected at non-partisan elections in the counties or the probate districts in which they reside and shall hold office for terms of six years and until their successors are elected and qualified. In counties or districts with more than one judge the terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 17. No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or the amount of judicial activity of his office.

Sec. 18. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within a circuit, and of the probate judges within a county or district, shall be uniform, and may be increased, but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

Each of the judges of the circuit court shall receive an annual salary as provided by law. In addition to the salary received from the state, each circuit judge may receive from any county in which he regularly holds court an additional salary as determined from time to time by the board of supervisors of the county. In any county where an additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

Sec. 19. The supreme court, the court of appeals, the circuit court, the probate court and other courts designated as such by the legislature shall be courts of record and each shall have a common seal. Justices and judges of courts of record must be persons who are licensed to practice law in this state. No person shall be elected or appointed to a judicial office after reaching the age of 70 years.

1 Sec. 20. Whenever a justice or judge removes  
2 his domicile beyond the limits of the territory  
3 from which he was elected, he shall have vacated  
4 his office.

5 Sec. 21. Any justice or judge of a court of  
6 record shall be ineligible to be nominated for  
7 or elected to an elective office other than a judicial  
8 office during the period of his service and for  
9 one year thereafter.

10 Sec. 22. Any elected judge of the court of  
11 appeals, circuit court or probate court may be-  
12 come a candidate in the primary election for the  
13 office of which he is the incumbent by filing an  
14 affidavit of candidacy in the form and manner  
15 prescribed by law.

16 Sec. 23. A vacancy in the elective office of a  
17 judge of any court of record shall be filled at a  
18 general or special election as provided by law.  
19 The supreme court may authorize persons who  
20 have served as judges and who have retired, to  
21 perform judicial duties for the limited period of  
22 time from the occurrence of the vacancy until  
23 the successor is elected and qualified. Such per-  
24 sons shall be ineligible for election to fill the  
25 vacancy.

26 Sec. 24. There shall be printed upon the ballot  
27 under the name of each elected incumbent justice  
28 or judge who is a candidate for nomination or  
29 election to the same office the designation of  
30 that office.

31 Sec. 25. For reasonable cause, which is not  
32 sufficient ground for impeachment, the governor  
33 shall remove any judge on a concurrent resolution  
34 of two-thirds of the members elected to and serv-  
35 ing in each house of the legislature. The cause  
36 for removal shall be stated at length in the  
37 resolution.

38 Sec. 26. The offices of circuit court commis-  
39 sioner and justice of the peace are abolished at  
40 the expiration of five years from the date this  
41 constitution becomes effective or may within this  
42 period be abolished by law. Their jurisdiction,  
43 compensation and powers within this period shall  
44 be as provided by law. Within this five-year period,  
45 the legislature shall establish a court or courts  
46 of limited jurisdiction with powers and jurisdic-  
47 tion defined by law. The location of such court  
48 or courts, and the qualifications, tenure, method  
49 of election and salary of the judges of such court  
50 or courts, and by what governmental units the  
51 judges shall be paid, shall be provided by law,  
52 subject to the limitations contained in this Article.

53 Statutory courts in existence at the time this  
54 constitution becomes effective shall retain their  
55 powers and jurisdiction, except as provided by  
56 law, until they are abolished by law.

57 Sec. 27. The supreme court, the court of ap-  
58 peals, the circuit court, or any justices or judges  
59 thereof, shall not exercise any power of appoint-  
60 ment to public office except as provided in this

constitution.

1 Sec. 28. All final decisions, findings, rulings  
2 and orders of any administrative officer or agency  
3 existing under the constitution or by law, which  
4 are judicial or quasi-judicial and affect private  
5 rights or licenses, shall be subject to direct re-  
6 view by the courts as provided by law. This re-  
7 view shall include, as a minimum, the determina-  
8 tion whether such final decisions, findings, rulings  
9 and orders are authorized by law; and, in cases in  
10 which a hearing is required, whether the same  
11 are supported by competent, material and sub-  
12 stantial evidence on the whole record. Findings  
13 of fact in workmen's compensation proceedings  
14 shall be conclusive in the absence of fraud un-  
15 less otherwise provided by law.

16 Sec. 29. Justices of the supreme court, judges  
17 of the court of appeals, circuit judges and other  
18 judges as provided by law shall be conservators  
19 of the peace within their respective jurisdictions.

## Article VII

### Local Government

1 Sec. 1. Each organized county shall be a body  
2 corporate with powers and immunities provided  
3 by law.

4 Sec. 2. Any county may frame, adopt, amend  
5 or repeal a county charter in a manner and with  
6 powers and limitations to be provided by general  
7 law, which shall among other things provide for  
8 the election of a charter commission. The law  
9 may permit the organization of county govern-  
10 ment in form different from that set forth in this  
11 constitution and shall limit the rate of ad valorem  
12 property taxation for county purposes, and re-  
13 strict the powers of charter counties to borrow  
14 money and contract debts. Each charter county  
15 is hereby granted power to levy other taxes for  
16 county purposes subject to limitations and pro-  
17 hibitions set forth in this constitution or law.  
18 Subject to law, a county charter may authorize  
19 the county through its regularly constituted  
20 authority to adopt resolutions and ordinances re-  
21 lating to its concerns.

22 The board of supervisors by a majority vote  
23 of its members may, and upon petition of five  
24 percent of the electors shall, place upon the ballot  
25 the question of electing a commission to frame a  
26 charter.

27 No county charter shall be adopted, amended  
28 or repealed until approved by a majority of elec-  
29 tors voting on the question.

30 Sec. 3. No organized county shall be reduced  
31 by the organization of new counties to less than  
32 16 townships as surveyed by the United States,  
33 unless approved in the manner prescribed by law  
34 by a majority of electors voting thereon in each  
35 county to be affected.

36 Sec. 4. There shall be elected for four-year  
37 terms in each organized county a sheriff, a county

clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be provided by law. The board of supervisors in any county may combine the offices of county clerk and register of deeds in one office or separate the same at pleasure.

Sec. 5. The sheriff, county clerk, county treasurer and register of deeds shall hold their principal offices at the county seat.

Sec. 6. The sheriff may be required by law to renew his security periodically and in default of giving such security, his office shall be vacant. The county shall never be responsible for his acts, except that the board of supervisors may protect him against claims by prisoners for unintentional injuries received while in his custody. He shall not hold any other office except in civil defense.

Sec. 7. A board of supervisors shall be established in each organized county consisting of one member from each organized township and such representation from cities as provided by law.

Sec. 8. Boards of supervisors shall have legislative, administrative and such other powers and duties as provided by law.

Sec. 9. Boards of supervisors shall have exclusive power to fix the compensation of county officers not otherwise provided by law.

Sec. 10. A county seat once established shall not be removed until the place to which it is proposed to be moved shall be designated by two-thirds of the members of the board of supervisors and a majority of the electors voting thereon shall have approved the proposed location in the manner prescribed by law.

Sec. 11. No county shall incur any indebtedness which shall increase its total debt beyond 10 percent of its assessed valuation.

Sec. 12. A navigable stream shall not be bridged or dammed without permission granted by the board of supervisors of the county as provided by law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and political subdivisions therein.

Sec. 13. Two or more contiguous counties may combine into a single county if approved in each affected county by a majority of the electors voting on the question.

Sec. 14. The board of supervisors of each organized county may organize and consolidate townships under restrictions and limitations provided by law.

Sec. 15. Any county, when authorized by its board of supervisors shall have the authority to enter or to intervene in any action or certificate proceeding involving the services, charges or rates of any privately owned public utility furnishing services or commodities to rate payers within the county.

Sec. 16. The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the state and by the counties and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The legislature may provide the powers and duties of counties in relation to highways, bridges, culverts and airports; may provide for county road commissioners to be appointed or elected, with powers and duties provided by law. The ad valorem property tax imposed for road purposes by any county shall not exceed in any year one-half of one percent of the assessed valuation for the preceding year.

Sec. 17. Each organized township shall be a body corporate with powers and immunities provided by law.

Sec. 18. In each organized township there shall be elected for terms of not less than two nor more than four years as prescribed by law a supervisor, a clerk, a treasurer, and not to exceed four trustees, whose legislative and administrative powers and duties shall be provided by law.

Sec. 19. No organized township shall grant any public utility franchise which is not subject to revocation at the will of the township, unless the proposition shall first have been approved by a majority of the electors of such township voting thereon at a regular or special election.

Sec. 20. The legislature shall provide by law for the dissolution of township government whenever all the territory of an organized township is included within the boundaries of a village or villages notwithstanding that a village may include territory within another organized township and provide by law for the classification of such village or villages as cities.

Sec. 21. The legislature shall provide by general laws for the incorporation of cities and villages. Such laws shall limit their rate of ad valorem property taxation for municipal purposes, and restrict the powers of cities and villages to borrow money and contract debts. Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.

Sec. 22. Under general laws the electors of each city and village shall have the power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village. Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall limit or restrict the general grant of authority conferred by this section.

1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | 28 | 29 | 30 | 31 | 32 | 33 | 34 | 35 | 36 | 37 | 38 | 39 | 40 | 41 | 42 | 43 | 44 | 45 | 46 | 47 | 48 | 49 | 50 | 51 | 52 | 53 | 54 | 55 | 56 | 57 | 58 | 59 | 60

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. Whenever possible, such additional forms of government or authorities shall be designed to perform multi-purpose functions rather than a single function.

Sec. 28. The legislature by general law shall authorize two or more counties, 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.



1 Sec. 2. The legislature shall maintain and sup-  
 2 port a system of free public elementary and sec-  
 3 ondary schools as defined by law. Every school  
 4 district shall provide for the education of its  
 5 pupils without discrimination as to religion, creed,  
 6 race, color or national origin.

7 Sec. 3. Leadership and general supervision over  
 8 all public education, including adult education and  
 9 instructional programs in state institutions, except  
 10 as to institutions of higher education granting  
 11 baccalaureate degrees, is vested in a state board  
 12 of education. It shall serve as the general plan-  
 13 ning and coordinating body for all public educa-  
 14 tion, including higher education, and shall advise  
 15 the legislature as to the financial requirements  
 16 in connection therewith.

17 The state board of education shall appoint a  
 18 superintendent of public instruction whose term  
 19 of office shall be determined by the board. He  
 20 shall be the chairman of the board without the  
 21 right to vote, and shall be responsible for the  
 22 execution of its policies. He shall be the principal  
 23 executive officer of a state department of educa-  
 24 tion which shall have powers and duties provided  
 25 by law.

26 The state board of education shall consist of  
 27 eight members who shall be nominated by party  
 28 conventions and elected at large for terms of  
 29 eight years as prescribed by law. The governor  
 30 shall fill any vacancy by appointment for the  
 31 unexpired term. The governor shall be ex-officio  
 32 a member of the state board of education with-  
 33 out the right to vote.

34 The power of the boards of institutions of higher  
 35 education provided in this constitution to super-  
 36 vise their respective institutions and control and  
 37 direct the expenditure of the institutions' funds  
 38 shall not be limited by this section.

39 Sec. 4. The legislature shall appropriate  
 40 moneys to maintain the university of Michigan,  
 41 Michigan State University, Wayne State Univer-  
 42 sity, Eastern Michigan University, Michigan Col-  
 43 lege of Science and Technology, Central Michi-  
 44 gan University, Northern Michigan University,  
 45 Western Michigan University, Ferris Institute,  
 46 Grand Valley State College, by whatever names  
 47 such institutions may hereafter be known, and  
 48 other institutions of higher education established  
 49 by law. The legislature shall be given an annual  
 50 accounting of all income and expenditures by each  
 51 of these educational institutions. Formal sessions  
 52 of governing boards of such institutions shall be  
 53 open to the public.

54 Sec. 5. The regents of the University of Michi-  
 55 gan and their successors in office shall constitute  
 56 a body corporate known as the Regents of the  
 57 University of Michigan; the trustees of Michigan  
 58 State University and their successors in office shall  
 59 constitute a body corporate known as the Board  
 60 of Trustees of Michigan State University; the

governors of Wayne State University and their  
 successors in office shall constitute a body corpor-  
 ate known as the Board of Governors of Wayne  
 State University. Each board shall have general  
 supervision of its institution and the control and  
 direction of all expenditures from the institution's  
 funds. Each board shall, as often as necessary,  
 elect a president of the institution under its su-  
 pervision. He shall be the principal executive of-  
 ficer of the institution, be ex-officio a member of  
 the board without the right to vote and preside  
 at meetings of the board. The board of each in-  
 stitution shall consist of eight members who shall  
 hold office for terms of eight years and who shall  
 be elected as provided by law. The governor shall  
 fill board vacancies by appointment. Each ap-  
 pointee shall hold office until a successor has been  
 nominated and elected as provided by law.

Sec. 6. Other institutions of higher education  
 established by law having authority to grant  
 baccalaureate degrees shall each be governed by  
 a board of control which shall be a body corporate.  
 The board shall have general supervision of the  
 institution and the control and direction of all  
 expenditures from the institution's funds. It shall,  
 as often as necessary, elect a president of the in-  
 stitution under its supervision. He shall be the  
 principal executive officer of the institution and  
 be ex-officio a member of the board without the  
 right to vote. The board may elect one of its mem-  
 bers or may designate the president, to preside at  
 board meetings. Each board of control shall con-  
 sist of eight members who shall hold office for  
 terms of eight years, not more than two of which  
 shall expire in the same year, and who shall be  
 appointed by the governor by and with the ad-  
 vice and consent of the senate. Vacancies shall  
 be filled in like manner.

Sec. 7. The legislature shall provide by law  
 for the establishment and financial support of  
 public community and junior colleges which shall  
 be supervised and controlled by locally elected  
 boards. The legislature shall provide by law for  
 a state board for public community and junior  
 colleges which shall advise the state board of  
 education concerning general supervision and plan-  
 ning for such colleges and requests for annual  
 appropriations for their support. The board shall  
 consist of eight members who shall hold office  
 for terms of eight years, not more than two of  
 which shall expire in the same year, and who shall  
 be appointed by the state board of education. Va-  
 cancies shall be filled in like manner. The super-  
 intendent of public instruction shall be ex-officio  
 a member of this board without the right to vote.

Sec. 8. Institutions, programs, and services for  
 the care, treatment, education or rehabilitation of  
 those inhabitants who are physically, mentally, or  
 otherwise seriously handicapped shall always be  
 fostered and supported.



1 Sec. 9. The legislature shall provide by law for  
2 the establishment and support of public libraries  
3 which shall be available to all residents of the state  
4 under regulations adopted by the governing bodies  
5 thereof. All fines assessed and collected in the  
6 several counties, cities and townships for any  
7 breach of the penal laws shall be exclusively ap-  
8 plied to the support of such public libraries, and  
9 county law libraries as provided by law.

## Article IX

### Finance and Taxation

13 Sec. 1. The legislature shall impose taxes suf-  
14 ficient with other resources to pay the expenses of  
15 state government.

16 Sec. 2. The power of taxation shall never be  
17 surrendered, suspended or contracted away.

18 Sec. 3. The legislature shall provide for the  
19 uniform general ad valorem taxation of real and  
20 tangible personal property not exempt by law. The  
21 legislature shall provide for the determination of  
22 true cash value of such property; the proportion  
23 of true cash value at which such property shall  
24 be uniformly assessed, which shall not, after  
25 January 1, 1966, exceed 50 percent; and for a sys-  
26 tem of equalization of assessments. The legislature  
27 may provide for alternative means of taxation of  
28 designated real and tangible personal property in  
29 lieu of general ad valorem taxation. Every tax  
30 other than the general ad valorem property tax  
31 shall be uniform upon the class or classes on  
32 which it operates.

33 Sec. 4. Property owned and occupied by non-  
34 profit religious or educational organizations and  
35 used exclusively for religious or educational pur-  
36 poses, as defined by law, shall be exempt from  
37 real and personal property taxes.

38 Sec. 5. The legislature shall provide for the  
39 assessment by the state of the property of those  
40 public service businesses assessed by the state  
41 at the date this constitution becomes effective, and  
42 of other property as designated by the legislature,  
43 and for the imposition and collection of taxes  
44 thereon. Property assessed by the state shall be  
45 assessed at the same proportion of its true  
46 cash value as the legislature shall specify for  
47 property subject to general ad valorem taxation.  
48 The rate of taxation on such property shall be  
49 the average rate levied upon other property in this  
50 state under the general ad valorem tax law, or,  
51 if the legislature provides, the rate of tax applicable  
52 to the property of each business enterprise assessed  
53 by the state shall be the average rate of ad valorem  
54 taxation levied upon other property in all counties  
55 in which any of such property is situated.

56 Sec. 6. Except as otherwise provided in this  
57 constitution, the total amount of general ad valo-  
58 rem taxes imposed upon real and tangible per-  
59 sonal property for all purposes in any one year  
60 shall not exceed 15 mills on each dollar of the

1 assessed valuation of property as finally equalized.  
2 Under procedures provided by law, which shall  
3 guarantee the right of initiative, separate tax  
4 limitations for any county and for the townships  
5 and for school districts therein, the aggregate of  
6 which shall not exceed 18 mills on each dollar of  
7 such valuation, may be adopted and thereafter  
8 altered by the vote of a majority of the qualified  
9 electors of such county voting thereon, in lieu  
10 of the limitation hereinbefore established. These  
11 limitations may be increased to an aggregate of  
12 not to exceed 50 mills on each dollar of valuation,  
13 for a period of not to exceed 20 years at any one  
14 time, if approved by a majority of the electors,  
15 qualified under Section 6 of Article II of this  
16 constitution, voting on the question.

17 The foregoing limitations shall not apply to  
18 taxes imposed for the payment of principal and  
19 interest on bonds or other evidences of indebted-  
20 ness or for the payment of assessments or con-  
21 tract obligations in anticipation of which bonds  
22 are issued, which taxes may be imposed without  
23 limitation as to rate or amount; or to taxes im-  
24 posed for any other purpose by any city, vil-  
25 lage, charter county, charter township, charter  
26 authority or other authority, the tax limitations  
27 of which are provided by charter or by general  
28 law.

29 In any school district which extends into two  
30 or more counties, property taxes at the highest  
31 rate available in the county which contains the  
32 greatest part of the area of the district may be  
33 imposed and collected for school purposes through-  
34 out the district.

35 Sec. 7. No income tax graduated as to rate  
36 or base shall be imposed by the state or any of  
37 its subdivisions.

38 Sec. 8. The legislature shall not impose a  
39 sales tax on retailers at a rate of more than  
40 four percent of their gross taxable sales of  
41 tangible personal property.

42 Sec. 9. All specific taxes, except general sales  
43 and use taxes and regulatory fees, imposed di-  
44 rectly or indirectly on fuels sold or used  
45 to propel motor vehicles upon highways and on  
46 registered motor vehicles shall, after the payment  
47 of necessary collection expenses, be used exclusi-  
48 vely for highway purposes as defined by law.

49 Sec. 10. One-eighth of all taxes imposed on  
50 retailers on taxable sales at retail of tangible  
51 personal property shall be used exclusively for  
52 assistance to townships, cities and villages, on  
53 a population basis as provided by law. In de-  
54 termining population the legislature may exclude  
55 any portion of the total number of persons who  
56 are wards, patients or convicts in any tax sup-  
57 ported institution.

58 Sec. 11. There shall be established a state  
59 school aid fund which shall be used exclusively  
60 for the support of public education and school

employees' retirement systems, as provided by law. One-half of all taxes imposed on retailers on taxable sales at retail of tangible personal property, and other tax revenues provided by law, shall be dedicated to this fund. Payments from this fund shall be made in full on a scheduled basis, as provided by law.

Sec. 12. No evidence of state indebtedness shall be issued except for debts authorized pursuant to this constitution.

Sec. 13. Public bodies corporate shall have power to borrow money and to issue their securities evidencing debt, subject to this constitution and law.

Sec. 14. To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 percent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

Sec. 15. The state may borrow money for specific purposes in amounts as may be provided by acts of the legislature adopted by a vote of two-thirds of the members elected to and serving in each house, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

Sec. 16. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

If the minimum amount which would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as finally equalized, or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall lend the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall lend to it an amount sufficient to enable the school district to make the payment.

The term "qualified bonds" means general obli-

gation bonds of school districts issued for capital expenditures, including refunding bonds, issued prior to May 4, 1955, or issued thereafter and qualified as provided by law pursuant to Section 27 or Section 28 of Article X of the Constitution of 1908 or pursuant to this section.

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used toward the repayment of state loans. In any year when such levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Subject to the foregoing provisions, the legislature shall have the power to prescribe and to limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

The power to tax for the payment of principal and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made to school districts, shall be without limitation as to rate or amount.

All rights acquired under Sections 27 and 28 of Article X of the Constitution of 1908, by holders of bonds heretofore issued, and all obligations assumed by the state or any school district under these sections, shall remain unimpaired.

Sec. 17. No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

Sec. 18. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

This section shall not be construed to prohibit the investment of public funds until needed for current requirements or the investment of funds accumulated to provide retirement or pension benefits for public officials and employees, as provided by law.

Sec. 19. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation, except that funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law; and endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

Sec. 20. No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money

1 shall be deposited in any bank in excess of 50  
2 percent of the capital and surplus of such bank.  
3 Any bank receiving deposits of state money shall  
4 show the amount of state money so deposited as  
5 a separate item in all published statements.

6 Sec. 21. The legislature shall provide by law  
7 for the annual accounting for all public moneys,  
8 state and local, and may provide by law for interim  
9 accounting.

10 The legislature shall provide by law for the  
11 maintenance of uniform accounting systems by  
12 units of local government and the auditing of  
13 county accounts by competent state authority  
14 and other units of government as provided by law.

15 Sec. 22. Procedures for the examination and  
16 adjustment of claims against the state shall be  
17 prescribed by law.

18 Sec. 23. All financial records, accountings,  
19 audit reports and other reports of public moneys  
20 shall be public records and open to inspection. A  
21 statement of all revenues and expenditures of pub-  
22 lic moneys shall be published and distributed  
23 annually, as provided by law.

24 Sec. 24. The accrued financial benefits of each  
25 pension plan and retirement system of the state  
26 and its political subdivisions shall be a contractual  
27 obligation thereof which shall not be diminished  
28 or impaired thereby.

29 Financial benefits arising on account of service  
30 rendered in each fiscal year shall be funded during  
31 that year and such funding shall not be used for  
32 financing unfunded accrued liabilities.

#### Article X Property

33 Sec. 1. The disabilities of coverture as to prop-  
34 erty are abolished. The real and personal estate of  
35 every woman acquired before marriage and all  
36 real and personal property to which she may after-  
37 wards become entitled shall be and remain the  
38 estate and property of such woman, and shall not  
39 be liable for the debts, obligations or engagements  
40 of her husband, and may be dealt with and dis-  
41 posed of by her as if she were unmarried. Dower  
42 may be relinquished or conveyed as provided by  
43 law.

44 Sec. 2. Private property shall not be taken for  
45 public use without just compensation therefor  
46 being first made or secured in a manner prescribed  
47 by law. The amount of compensation shall be  
48 determined in proceedings in a court of record.

49 Sec. 3. A homestead in the amount of not less  
50 than \$3,500 and personal property of every resi-  
51 dent of this state in the amount of not less than  
52 \$750, as defined by law, shall be exempt from  
53 forced sale on execution or other process of any  
54 court. Such exemptions shall not extend to any  
55 lien thereon excluded from exemption by law.

56 Sec. 4. Procedures relating to escheats and to  
57 the custody and disposition of escheated property

shall be prescribed by law.

58 Sec. 5. The legislature shall have general su-  
59 pervisory jurisdiction over all state owned lands  
60 useful for forest preserves, game areas and recrea-  
61 tional purposes; shall require annual reports as  
62 to such lands from all departments having super-  
63 vision or control thereof; and shall by general law  
64 provide for the sale, lease or other disposition of  
65 such lands.

66 The legislature by an act adopted by two-thirds  
67 of the members elected to and serving in each  
68 house may designate any part of such lands as  
69 a state land reserve. No lands in the state land  
70 reserve may be removed from the reserve, sold,  
71 leased or otherwise disposed of except by an act  
72 of the legislature.

73 Sec. 6. Aliens who are residents of this state  
74 shall enjoy the same rights and privileges in  
75 property as citizens of this state.

#### Article XI

##### Public Officers and Employment

76 Sec. 1. All officers, legislative, executive and  
77 judicial, before entering upon the duties of their  
78 respective offices, shall take and subscribe the  
79 following oath or affirmation: I do solemnly swear  
80 (or affirm) that I will support the Constitution  
81 of the United States and the constitution of this  
82 state, and that I will faithfully discharge the duties  
83 of the office of ..... according to the best of  
84 my ability. No other oath, affirmation, or any  
85 religious test shall be required as a qualification  
86 for any office or public trust.

87 Sec. 2. The terms of office of elective state  
88 officers, members of the legislature and justices  
89 and judges of courts of record shall begin at twelve  
90 o'clock noon on the first day of January next suc-  
91 ceeding their election, except as otherwise provided  
92 in this constitution. The terms of office of county  
93 officers shall begin on the first day of January  
94 next succeeding their election, except as otherwise  
95 provided by law.

96 Sec. 3. Neither the legislature nor any poli-  
97 tical subdivision of this state shall grant or author-  
98 ize extra compensation to any public officer, agent  
99 or contractor after the service has been rendered  
100 or the contract entered into.

101 Sec. 4. No person having custody or control of  
102 public moneys shall be a member of the legislature,  
103 or be eligible to any office of trust or profit under  
104 this state, until he shall have made an accounting,  
105 as provided by law, of all sums for which he may  
106 be liable.

107 Sec. 5. The classified state civil service shall  
108 consist of all positions in the state service except  
109 those filled by popular election, heads of principal  
110 departments, members of boards and commis-  
111 sions, the principal executive officer of boards and  
112 commissions heading principal departments, em-  
113 ployees of courts of record, employees of the legis-

lature, employees of the state institutions of higher education, all persons in the armed forces of the state, eight exempt positions in the office of the governor, and within each principal department, when requested by the department head, two other exempt positions, one of which shall be policy-making. The civil service commission may exempt three additional positions of a policy-making nature within each principal department.

The civil service commission shall be non-salaried and shall consist of four persons, not more than two of whom shall be members of the same political party, appointed by the governor for terms of eight years, no two of which shall expire in the same year.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

No person shall be appointed to or promoted in the classified service who has not been certified by the commission as qualified for such appointment or promotion. No appointments, promotions, demotions or removals in the classified service shall be made for religious, racial or partisan considerations.

Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year. Within 60 calendar days following such transmission, the legislature may, by a two-thirds vote of the members elected to and serving in each house, reject or reduce increases in rates of compensation authorized by the commission. Any reduction ordered by the legislature shall apply uniformly to all classes of employees affected by the increases and shall not adjust pay differentials already established by the civil service commission. The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases author-

ized by the commission.

The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition of a position shall have a right of appeal to the commission through established grievance procedures.

The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within six months after the conclusion of each fiscal year the commission shall return to the state treasury all moneys unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

No payment for personal services shall be made or authorized until the provisions of this constitution pertaining to civil service have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

Sec. 6. By ordinance or resolution of its governing body which shall not take effect until approved by a majority of the electors voting thereon, unless otherwise provided by charter, each county, township, city, village, school district and other governmental unit or authority may establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services to any such unit on a reimbursable basis.

Sec. 7. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected and serving shall be necessary to direct an impeachment.

When an impeachment is directed, the house of representatives shall elect three of its members to prosecute the impeachment.

Every impeachment shall be tried by the senate immediately after the final adjournment of the legislature. The senators shall take an oath or affirmation truly and impartially to try and determine the impeachment according to the evi-

1 dence. When the governor or lieutenant governor  
2 is tried, the chief justice of the supreme court  
3 shall preside.

4 No person shall be convicted without the con-  
5 currence of two-thirds of the senators elected and  
6 serving. Judgment in case of conviction shall not  
7 extend further than removal from office, but the  
8 person convicted shall be liable to punishment  
9 according to law.

10 No judicial officer shall exercise any of the  
11 functions of his office after an impeachment is  
12 directed until he is acquitted.

## 13 Article XII

### 14 Amendment & Revision

15 Sec. 1. Amendments to this constitution may  
16 be proposed in the senate or house of representa-  
17 tives. Proposed amendments agreed to by two-  
18 thirds of the members elected to and serving in  
19 each house on a vote with the names and vote of  
20 those voting entered in the respective journals  
21 shall be submitted, not less than 60 days there-  
22 after, to the electors at the next general election  
23 or special election as the legislature shall direct.  
24 If a majority of electors voting on a proposed  
25 amendment approve the same, it shall become  
26 part of the constitution and shall abrogate or  
27 amend existing provisions of the constitution at  
28 the end of 45 days after the date of the election  
29 at which it was approved.

30 Sec. 2. Amendments may be proposed to this  
31 constitution by petition of the registered electors  
32 of this state. Every petition shall include the full  
33 text of the proposed amendment, and be signed by  
34 registered electors of the state equal in number to  
35 at least 10 percent of the total vote cast for  
36 all candidates for governor at the last preceding  
37 general election at which a governor was elected.  
38 Such petitions shall be filed with the person au-  
39 thorized by law to receive the same at least 120  
40 days before the election at which the proposed  
41 amendment is to be voted upon. Any such petition  
42 shall be in the form, and shall be signed and  
43 circulated in such manner, as prescribed by law.  
44 The person authorized by law to receive such peti-  
45 tion shall upon its receipt determine, as provided  
46 by law, the validity and sufficiency of the signa-  
47 tures on the petition, and make an official an-  
48 nouncement thereof at least 60 days prior to the  
49 election at which the proposed amendment is to be  
50 voted upon.

51 Any amendment proposed by such petition shall  
52 be submitted, not less than 120 days after it was  
53 filed, to the electors at the next general election.  
54 Such proposed amendment, existing provisions of  
55 the constitution which would be altered or abro-  
56 gated thereby, and the question as it shall appear  
57 on the ballot shall be published in full as provided  
58 by law. Copies of such publication shall be posted  
59 in each polling place and furnished to news media

as provided by law.

60 The ballot to be used in such election shall con-  
tain 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 au-  
thorized by law, and shall consist of a true and  
impartial statement of the purpose of the amend-  
ment 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 ap-  
proved. 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 elec-  
tors 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 mem-  
bers. 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 mem-  
ber of the same party as the delegate vacating  
the office. The convention shall have power to ap-  
point 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 pro-  
vided by law.

No proposed constitution or amendment adopted  
by such convention shall be submitted to the  
electors for approval as hereinafter provided un-  
less 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 bor-

row money and may pledge its full faith and credit for refunding any bonds issued by the Mackinac Bridge Authority and at the time of refunding the Mackinac Bridge Authority shall be abolished and the operation of the bridge shall be assumed by the state highway department. The legislature may implement this section by law.

Sec. 16. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the Tuesday after the first Monday of November, 1962. It shall be the duty of the secretary of state forthwith to give notice of such submission to all other officers required to give or publish any notice in regard to a general election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.

Sec. 17. Every registered elector may vote on the adoption of the constitution. The board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office, the words: Shall the revised constitution be adopted? ( ) Yes. ( ) No. All votes cast at the election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. If the revised constitution so submitted receives more votes in its favor than were cast against it, it shall be the supreme law of the state on and after the first day of January of the year following its adoption.

*Following is statement of the style and form changes made by the committee on style and drafting from the document as referred to said committee (see above, page 3210) to the document as reported by said committee (see above, page 3214):*

| arti-<br>cle | sec-<br>tion | changes                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|--------------|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| I            | 2            | After "because of" strike out "race, color, religion, or national origin" and insert "religion, race, color or national origin".                                                                                                                                                                                                                                                                                                                                                                        |
| II           | 6            | After "such election or" insert "electors who are".                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| III          | 5            | Combine both paragraphs into one.                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| IV           | 4            | First paragraph, first sentence, after "which it is combined" insert a comma and strike out "upon the effective date of the annexation or merger,"; and in the second sentence, after the first "the" insert "district or"; and after "determined by" strike out "said" and insert "such".                                                                                                                                                                                                              |
|              | 6            | Last paragraph, after "by the commission, and" strike out "may" (in the amendment) and insert "shall".                                                                                                                                                                                                                                                                                                                                                                                                  |
|              | 12           | (In the amendment) after "compensation and" strike out "expenses" and insert "expense allowances"; and after "changes in" strike out "salary or expenses" and insert "compensation or expense allowances"; and after "commence their" strike out "term" and insert "terms".                                                                                                                                                                                                                             |
| V            | 4            | Section has been split into 2 sections and reversed in order. The balance of the article has been renumbered.                                                                                                                                                                                                                                                                                                                                                                                           |
|              | 25           | Renumbered to Sec. 26. First paragraph, after "resignation" strike out the comma; and after "THE ELECTED attorney general" strike out the comma; and in the second paragraph, after "IN" strike out "THE".                                                                                                                                                                                                                                                                                              |
|              | 28           | Renumbered to Sec. 29. Last paragraph, (in the amendment), after "court" strike out "of the state".                                                                                                                                                                                                                                                                                                                                                                                                     |
| VI           | 8            | After "lines and as" (in the amendment) strike out "near" and insert "nearly"; and after "equal population, as" (in the amendment) strike out "prescribed" and insert "provided".                                                                                                                                                                                                                                                                                                                       |
|              | 26           | First paragraph, after "justice of the peace" strike out "shall be" and insert "are".                                                                                                                                                                                                                                                                                                                                                                                                                   |
| VII          | 24           | First paragraph, after "own" strike out "and" and insert "or".                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|              | 25           | Last sentence, after "sell any" strike out "such".                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|              | 28           | First paragraph, after "two or more counties," strike out "cities, villages, townships or districts," and insert "townships, cities, villages or districts,".                                                                                                                                                                                                                                                                                                                                           |
|              | 29           | First sentence, after "places of any county," strike out "city, village or township" and insert "township, city or village"; and after "authority of the county," strike out "city, village or township" and insert "township, city or village"; and after "franchise from the" strike out "city, village or township" and insert "township, city or village". Second sentence, after "right of all counties," strike out "cities, villages and townships" and insert "townships, cities and villages". |
|              | 30           | After "granted by any" strike out "city, village or township" and insert "township, city or village".                                                                                                                                                                                                                                                                                                                                                                                                   |
|              | 33           | Renumbered to Sec. 34. After "concerning" strike out "cities, villages, counties and townships" and insert "counties, townships, cities and villages". (This section had pre-                                                                                                                                                                                                                                                                                                                           |

|          |      |                                                                                                                                                                                                                                                                             |
|----------|------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| VIII     | 2    | After "discrimination as to" strike out "race, creed, religion, color or national origin" and insert "religion, creed, race, color or national origin".                                                                                                                     |
| IX       | 4    | (In the amendment) after "occupied by" strike out "a"; and after "educational" strike out "organization" and insert "organizations".                                                                                                                                        |
|          | 6    | First paragraph, at the beginning of the third sentence strike out "The" and insert "These"; and after "limitations" strike out "established by this constitution or by county vote"; and after "constitution" insert a comma.                                              |
|          |      | Second paragraph, after "charter township" strike out "or" and insert a comma; and after "charter" strike out "or other" (in the amendment); and after "authority" insert "or other authority,".                                                                            |
|          | 10   | After "assistance to" strike out "cities, villages and townships" and insert "townships, cities and villages".                                                                                                                                                              |
|          | 11   | Section 11 has been rewritten to conform to other language in finance article. Meaning has not been changed.                                                                                                                                                                |
|          | 16   | Third paragraph, after "28" strike out the comma and insert "of" and after "X" strike out the comma.                                                                                                                                                                        |
|          |      | Seventh paragraph, after "28" strike out the comma and insert "of".                                                                                                                                                                                                         |
| X        | 1    | Second sentence (in the amendment) after "every woman" strike out the comma; and after "marriage" strike out the comma; and after "may be dealt with" insert "and disposed of".                                                                                             |
|          | 2    | The sentence, "Compensation shall be determined in proceedings in a court of record," has been added in lieu of the floor amendment.                                                                                                                                        |
| XI       | 6-14 | Section numbers 6, 7, 8, 9, 10, 11 and 12 stricken and Sec. 13 renumbered to Sec. 6, Sec. 14 renumbered to Sec. 7.                                                                                                                                                          |
|          | 7    | Old Sec. 7 (paragraph 5 of new section 5), strike out "partisan, racial or religious" and insert "religious, racial or partisan".                                                                                                                                           |
|          | 8    | Last sentence of old section 8 (paragraph 6 of new section 5), has been moved to second sentence; after "serving in each house, reject" strike out the comma; and in the next sentence, after "CLASSES OF EMPLOYEES" (in the amendment) insert "affected by the increases". |
|          | 13   | First sentence of old section 13 (new section 6, in the amendment), after "otherwise provided by charter" insert a comma.                                                                                                                                                   |
|          | 15   | Old section 15 transferred to local government article. (section 33 of article VII.)                                                                                                                                                                                        |
| XII      | 2    | Paragraph 4, first sentence, after "question," strike out "the proposed amendment" and insert "it".                                                                                                                                                                         |
|          | 3    | Second paragraph, second sentence, after "vacating the office" insert a period and strike out "if the legislature provides for partisan election of delegates.".                                                                                                            |
| Schedule |      | After "FOLLOWING SCHEDULE" strike out "IS" and insert "and temporary provisions are"; and after "PERIOD AS" strike out "ITS PROVISIONS REQUIRE" and insert "are thereby required".                                                                                          |
|          | 6    | Section 6 has been changed somewhat but meaning unchanged; a sentence (not a paragraph) has been added at end of section, incorporating the floor amendment, which sentence reads as follows: "The legislature                                                              |

*committee on style and drafting as offered and considered read, including the additional changes made by said committee on August 1. (For text as referred to said committee, see above, page 3275):*

1. Amend article II, section 6 (column 2) line 49, after "electors" by striking out "which involves" and inserting "for"; and after "increase of" by striking out "any" and inserting "the"; and line 50, after "limitation" by inserting "imposed by Section 6 of Article IX"; and line 51, after "or" by inserting "for".

2. Amend article II, section 9 (column 2) line 8, after "electors" by striking out "or three-fourths of the members elected to and serving in each house of the legislature.", and inserting "unless otherwise provided in the initiative measure or by three-fourths of the members elected to and serving in each house of the legislature.".

3. Amend article III, section 5 (column 2) line 36, after "subdivision" by inserting "thereof".

4. Amend article IV, section 2 (column 1) line 24, after "assigned" by striking out "an apportionment factor" and inserting "factors".

5. Amend article IV, section 2 (column 2) line 1, after "two or more" by striking out "senate districts" and inserting "senators".

6. Amend article IV, section 3 (column 2) line 54, after "population" by inserting a comma.

7. Amend article IV, section 6 (column 1) line 14, by striking out "persons" and inserting "electors"; and line 24, after "party.", by striking out "One member of the commission shall be selected by each political party organization from each of the following four regions.", and inserting "One resident of each of the following four regions shall be selected by each political party organization."; and line 27, after "(1)" do not capitalize "the"; and after "(2)" do not capitalize "the"; and line 31, after "(3)" do not capitalize "southwestern"; and line 35, after "(4)" do not capitalize "southeastern".

8. Amend article IV, section 6 (column 2) line 38, after "state or the" by striking out "apportionment".

9. Amend article IV, section 8 (column 2) line 56, after "public and" by striking out "officers" and inserting "members".

10. Amend article IV, section 17 (column 2) line 10, after "committees.", by striking out the sentence which reads, "Each committee shall by roll call vote record the vote and name of all action on bills and resolutions taken in the committee.", and inserting "On all actions on bills and resolutions in each committee, names and votes of members shall be recorded.".

11. Amend article IV, section 33 (column 2) line 1, after "If he" by striking out "does not approve" and inserting "disapproves".

12. Amend article IV, section 37 (column 2) line 36, after "Sec. 37.", by striking out the entire section which reads, "The legislature may by concurrent resolution empower a joint committee of the legislature acting between sessions to suspend until the end of the next regular legislative session any rule or regulation of an administrative agency promulgated when the legislature is not in regular session.", and inserting "The legislature may by concurrent resolution empower a joint committee of the legislature, acting between sessions, to suspend any rule or regulation promulgated by an administrative agency subsequent to the adjournment of the last preceding regular legislative session. Such suspension shall continue no longer than the end of the next regular legislative session.".

13. Amend article V, section 2 (column 1) line 4, after "full" by inserting "regular".

14. Amend article V, section 5 (column 1) line 43, after "Sec. 5.", by striking out the entire section which reads, "At no time shall an examining or licensing board of a profession include less than a majority of members of that profession.", and inserting "A majority of the members of an appointed examining or licensing board of a profession shall be members of that profession.".

15. Amend article V, section 18 (column 1) line 31, after "submit" by striking out "any".

16. Amend article V, section 25 (column 2) line 24, after "vote" by inserting a comma; and line 25, by striking out "except in case of equal division.", and inserting "unless they be equally divided.".

17. Amend article V, section 28 (column 1) line 10, after "same year" by inserting a comma.

18. Amend article VI, section 1 (column 2) line 2, by striking out "other".

19. Amend article VI, section 3 (column 2) line 20, by striking out "other".

20. Amend article VI, section 4 (column 2) line 28, after "hear" by striking out the comma.

21. Amend article VI, section 8 (column 1) line 2, after "appeals" by striking out "may".

22. Amend article VI, section 18 (column 2) line 38, after "increased" by striking out the comma.

23. Amend article VI, section 26 (column 1) line 52, do not capitalize "article".

24. Amend article VI, section 28 (column 2) following line 16, by striking out the entire second paragraph [This paragraph added by amendment on May 11, see above, page 3240; for section as amended, see above, page 3275] which reads:

"No appeal may be taken to any court from a decision of the state tax commission fixing the value of described property for property tax purposes or determining an appeal from a decision of the county tax allocation board.", and inserting a new paragraph to read as follows:

"In the absence of fraud, error of law or the adoption of wrong principles, no appeal may be taken to any court from any final agency provided for the administration of property tax laws from any decision relating to valuation or allocation.".

25. Amend article VII, section 31 (column 2) line 36, after "alley" by striking out the comma.

26. Amend article VIII, section 4 (column 1) line 40, capitalize "University".

27. Amend article VIII, section 8 (column 2) line 56, after "programs" by striking out the comma; and line 58, after "mentally" by striking out the comma.

28. Amend article VIII, section 9 (column 1) line 6, after "counties.", by striking out "cities and townships" and inserting "townships and cities".

29. Amend article IX, section 11 (column 2) line 60, after "for" by striking out "the support of public education" and inserting "aid to school districts, higher education".

30. Amend article XI, section 5 (column 2) line 8, after "tion" by inserting "or creation".

31. Amend article XI, section 7 (column 2) line 51, after "elected" by inserting "thereto"; and after "serving" by inserting "therein".

32. Amend article XII, the title (column 1) after "Amendment" by striking out "&" and inserting "and".

33. Amend article XII, section 3 (column 2) line 41, after "bers.", by striking out "The governor shall appoint a qualified resident of the same district to fill a vacancy in the office of any delegate who shall be a member of the same party as the delegate vacating the office.", and inserting "To fill a vacancy in the office of any delegate, the governor shall appoint a qualified resident of the same district who shall be a member of the same party as the delegate vacating the office.".

34. Amend the schedule, section 5 (column 1) line 58, after "general" by striking out the comma; and line 59, after "two" by inserting a hyphen, so that it will read "two-year".

35. Amend the schedule, section 6 (column 2) line 12, after "1908 constitution" by inserting "as amended in 1952".

36. Amend the schedule, section 6 (column 2) line 15, after "shall be" by striking out "divide" and inserting "divided".

against the secretary of state, by Mr. Van Dusen, chairman, submits the following report:

In accordance with Resolution 96, the committee on action against secretary of state on May 14, 1962, filed with the circuit court for the county of Ingham, a petition for declaration of rights in an action entitled, Stephen S. Nisbet, President of the Michigan Constitutional Convention of 1961-1962 v. James M. Hare, Secretary of State. The relief sought was a declaration that the convention has the right to provide for submission of the proposed new constitution to the electors at the general election to be held November 6, 1962. The summons and petition were served on the secretary of state on the same day.

On May 22, having had no response from the attorney general, petitioner filed a motion for the entry of a decree. On May 25, the secretary of state appeared specially by the attorney general and moved to dismiss the petition on the ground that the case did not present an actual controversy. The trial court heard argument on the attorney general's motion on June 1 and on June 6 rendered an opinion denying the motion to dismiss. An order to that effect was entered on June 11.

Instead of proceeding to file an answer, the attorney general then filed an application to the supreme court for leave to appeal. This application was granted by the supreme court and the attorney general, on July 2, filed a claim of appeal.

The attorney general has not yet filed a brief and he states that he does not intend to do so until after August 7.

It is obvious that no judicial determination of the right of the constitutional convention to require submission of the proposed constitution to the electors on November 6 will be made in time to be useful to the convention. Accordingly, the committee recommends:

1) That section 15 [formerly section 16] of the schedule and temporary provisions of the proposed constitution be amended by striking from the first sentence the words "Tuesday after the first Monday of November, 1962" and inserting "first Monday in April, 1963."

2) That the committee be authorized to discontinue the action entitled, Nisbet v. Hare.

Richard C. Van Dusen, chairman.

**MR. VAN DUSEN:** Mr. President, I move the adoption of the report.

**PRESIDENT NISBET:** The question is on the motion of Mr. Van Dusen that the report be adopted. Those in favor will say aye. Opposed, no.

The report is adopted. Mr. Van Dusen.

**MR. VAN DUSEN:** Mr. President, in compliance with our rules, I think it would now be necessary to take a roll call vote on the amendment to the constitution changing the date.

**PRESIDENT NISBET:** Mr. Chase will read the amendment.

**SECRETARY CHASE:** The amendment recommended in the report is as follows:

1. Amend the schedule, section 15 [formerly section 16] (column 2) line 11, after "held on the" by striking out "Tuesday after the first Monday of November, 1962.", and inserting "first Monday in April, 1963."

**PRESIDENT NISBET:** The secretary will call the roll. Those in favor of the amendment will vote aye as your name is called. Those opposed will vote no.

*The roll was called and the delegates voted as follows:*

Yeas—141

|              |               |         |
|--------------|---------------|---------|
| Allen        | Goebel        | Page    |
| Andrus, Miss | Gover         | Pellow  |
| Anspach      | Greene        | Perlich |
| Austin       | Gust          | Perras  |
| Baginski     | Habermehl     | Plank   |
| Balcer       | Hanna, W. F.  | Pollock |
| Barthwell    | Hannah, J. A. | Powell  |
| Batchelor    | Hart, Miss    | Prettie |
| Beaman       | Haskill       | Pugsley |
| Bentley      | Hatch         | Radka   |

|                     |               |
|---------------------|---------------|
| Binkowski           | Hatcher, Mrs. |
| Blandford           | Heideman      |
| Bledsoe             | Higgs         |
| Bonisteel           | Hood          |
| Boothby             | Howes         |
| <b>Bowens</b>       | Hoxie         |
| Bradley             | Hubbs         |
| Brake               | Hutchinson    |
| Brown, G. E.        | Iverson       |
| Brown, T. S.        | Jones         |
| Buback              | Judd, Mrs.    |
| Butler, Mrs.        | Karn          |
| Conklin, Mrs.       | Kelsey        |
| Cudlip              | Kirk, S.      |
| Cushman, Mrs.       | Knirk, B.     |
| Danhof              | Koeze, Mrs.   |
| Dehnke              | Krolkowski    |
| Dell                | Kuhn          |
| DeVries             | Lawrence      |
| Donnelly, Miss      | Lebrand       |
| Doty, Dean          | Leppien       |
| Doty, Donald        | Lesinski      |
| Douglas             | Liberato      |
| Downs               | Madar         |
| Durst               | Mahinske      |
| Elliott, A. G.      | Martin        |
| Elliott, Mrs. Daisy | McAllister    |
| Erickson            | McCauley      |
| Everett             | McGowan, Miss |
| Farnsworth          | McLogan       |
| Faxon               | Millard       |
| Figy                | Mosier        |
| Finch               | Murphy        |
| Follo               | Nisbet        |
| Ford                | Nord          |
| Gadola              | Norris        |
| Garvin              | Ostrow        |

Nays—0

**SECRETARY CHASE:** On the adoption of the amendment, the yeas are 141; the nays are none.

**PRESIDENT NISBET:** The amendment is adopted. The question now is on the final passage of the constitution as amended this morning. Those who are in favor will answer aye as your names are called. Those opposed will answer nay. The secretary will call the roll.

*The roll was called and the delegates voted as follows:*

Yeas—98

|                |               |                 |
|----------------|---------------|-----------------|
| Allen          | Gover         | Powell          |
| Andrus, Miss   | Gust          | Prettie         |
| Anspach        | Habermehl     | Pugsley         |
| Balcer         | Hanna, W. F.  | Radka           |
| Batchelor      | Hannah, J. A. | Rajkovich       |
| Beaman         | Haskill       | Richards, J. B. |
| Bentley        | Hatch         | Richards, L. W. |
| Blandford      | Heideman      | Romney          |
| Bonisteel      | Higgs         | Rood            |
| Boothby        | Howes         | Rush            |
| Brake          | Hoxie         | Seyferth        |
| Brown, G. E.   | Hubbs         | Shackleton      |
| Butler, Mrs.   | Hutchinson    | Shaffer         |
| Conklin, Mrs.  | Iverson       | Sharpe          |
| Cudlip         | Judd, Mrs.    | Sleder          |
| Cushman, Mrs.  | Karn          | Spitler         |
| Danhof         | Kirk, S.      | Stafseth        |
| Dehnke         | Knirk, B.     | Staiger         |
| Dell           | Koeze, Mrs.   | Stamm           |
| DeVries        | Kuhn          | Sterrett        |
| Donnelly, Miss | Lawrence      | Stevens         |
| Doty, Dean     | Leppien       | Thomson         |
| Doty, Donald   | Martin        | Tubbs           |
| Durst          | McCauley      | Turner          |
| Elliott, A. G. | McGowan, Miss | Tweedie         |
| Erickson       | McLogan       | Upton           |
| Everett        | Millard       | Van Dusen       |
| Farnsworth     | Mosier        | Wanger          |
| Figy           | Nisbet        | White           |
| Finch          | Page          | Wood            |

Follo  
Gadola  
Goebel

Perras  
Plank  
Pollock

Woolfenden  
Yeager

#### Nays—43

Austin  
Baginski  
Barthwell  
Binkowski  
Bledsoe  
**Bowens**  
Bradley  
Brown, T. S.  
Buback  
Douglas  
Downs  
Elliott, Mrs. Daisy  
Faxon  
Ford  
Garvin

Greene  
Hart, Miss  
Hatcher, Mrs.  
Hood  
Jones  
Kelsey  
Krolikowski  
Leibrand  
Lesinski  
Liberato  
Madar  
Mahinske  
McAllister  
Murphy

Nord  
Norris  
Ostrow  
Pellow  
Perlich  
Sablich  
Shanahan  
Snyder  
Stopczynski  
Suzore  
Walker  
Wilkowski  
Young  
Youngblood

SECRETARY CHASE: On the adoption of the constitution as amended, the yeas are 98; the nays are 43. (applause)  
PRESIDENT NISBET: The **constitution** is adopted.

*For the constitution as adopted, see below, page 3317.*

Because of the hour, it being almost noon, the Chair recognizes Mr. Van Dusen.

MR. VANDUSEN: Mr. President, I move that the convention now stand in recess until 2:00 p.m.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen that we recess until 2:00 p.m. Those in favor will say aye. Opposed, no.

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

[Whereupon, at 11:50 o'clock a.m., the convention recessed; and, at 2:00 o'clock p.m., reconvened.]

Will the delegates please take their seats. The convention will please come to order.

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

PRESIDENT NISBET: I think we should recognize the fact that many of our employees are voluntarily back with us today, meeting with the delegates. I'm sure all of us are very happy to have them here. It brings about a happy result to see them and I think we ought to give them a good hand. (applause) Mr. Chase has an announcement.

SECRETARY CHASE: There are 3 announcements that possibly should have been made before we recessed for lunch.

First, there is mail for all of the delegates in the mail room downstairs.

Just prior to the May 11 adjournment, several of the delegates took out, on loan, sets of convention slides which have not been returned. Missing from our files are 12 complete sets of slides. Since we frequently have call from other delegates for the use of these slides, we would appreciate their return as soon as possible. Ink White, chairman of the committee on public information.

I am sure the delegates recall the lady on the civic center staff who took such good care of keeping the windows clean and the place well slicked up, who had to go to the hospital for a very critical operation. A number of the delegates contributed to a fund to help her over her financial difficulties. I have the following card:

It is very difficult to express my appreciation to all the wonderful people of con con. Let me say, with my heart, your kindness and generosity will always be remembered.

Sincerely,  
Freda Adams.

PRESIDENT NISBET: Since the adjournment on May 11, we have added 2 new associate members to the delegation: Mrs. Charles Follo and Mrs. Gil Wanger.

I asked Charlie if Mrs. Follo was present so that he might present her, but he said she isn't. We are sorry, Charlie, she couldn't be with us.

Mr. Wanger, is your associate delegate present? Would you present her?

[Whereupon, the delegates accorded Mrs. Wanger a standing ovation.]

At the final session before the long recess the president was authorized to name a reunion committee for the constitutional convention. Accordingly, the **president appoints**, as members of the reunion committee: Mr. Erickson, Mrs. Koeze, Messrs. Jones, Bowens, Brake, Mrs. Conklin, Mr. Dean Doty, Mrs. Daisy Elliott, Messrs. Faxon, Kelsey, Kuhn, Powell, Sharpe, Wanger, White and Norris.

Without objection, the appointments are approved. You will notice that most of these delegates are within the area of Lansing, Detroit or Grand Rapids for their ease in getting together when they have to meet. Mr. Claud Erickson is chairman of the committee.

Returning to the order of business, **approval of address to people**. We will take up the **report of the committee on public information**. Mr. White, chairman.

MR. WHITE: Mr. President, under date of June 26, 1962, each delegate was mailed proof copies of the proposed address to the people. Since that time our committee has received numerous suggestions for corrections, additions, deletions and so on. Our committee has met and gone over these suggestions and they have been, for the most part, agreed to. I might say, parenthetically, the address in its present corrected form represents the writing and editing of upwards of 50 of our delegates.

Under date of July 27, 1962, each of you was mailed a 16 page multilith report which outlined in detail some 108 corrections. This communication also carried the recommendation that we be authorized to correct the text of the constitution as it appears in the address to conform with the style and drafting changes adopted at today's session, and to offer comments accordingly, if necessary. All of this material has been delivered again to each delegate's desk today. Additionally, you have a single white multilith sheet from our committee containing brief addenda to this 16 page report.

It seems to me, Mr. President, the delegates have had ample time to consider these matters, and to expedite our final deliberations, I move that the report of the public information committee, with the recommended addenda, be considered read.

PRESIDENT NISBET: Without objection, it is so ordered.

*Following is the report as submitted and considered read:*

After careful consideration of suggestions from delegates, your committee on public information recommends the adoption of the following changes in the proof copy of the address to the people:

*For document incorporating following changes, see below, page 3355. Page numbers in report refer to document pages.*

1. Amend page 2, second full paragraph, line 3, after "that one" by striking out "must" and inserting "should"; to improve phraseology.

2. Amend page 2, third full paragraph, line 1, by striking out "Ordered by popular vote, its delegates selected by the people on the basis of one from each senatorial and representative district, the Constitutional Convention of 1961-62 met in Lansing on October 3, 1961.", and inserting "The convention was ordered by popular vote in April of 1961. There were 144 delegates, representing Michigan's 34 State Senatorial districts and 110 State Representative seats. They were elected in statewide voting on September 12, 1961, and convened at Lansing on October 3, 1961."; to improve awkward sentence construction and correct error by indicating "seats" rather than representative "districts."

3. Amend page 2, fifth full paragraph, line 2, after "overlapped" by striking out "each other"; to improve phraseology.

4. Amend page 2, fifth full paragraph, line 6, after

**CONSTITUTION  
OF THE  
STATE OF MICHIGAN**

**as finally adopted  
by the Convention  
August 1, 1962**



## PREAMBLE

We, the people of the State of Michigan, grateful to Almighty God for the blessings of freedom, and earnestly desiring to secure these blessings undiminished to ourselves and our posterity, do ordain and establish this constitution.

## ARTICLE I

### Declaration of Rights

Sec. 1. All political power is inherent in the people. Government is instituted for their equal benefit, security and protection.

Sec. 2. No person shall be denied the equal protection of the laws; nor shall any person be denied the enjoyment of his civil or political rights or be discriminated against in the exercise thereof because of religion, race, color or national origin. The legislature shall implement this section by appropriate legislation.

Sec. 3. The people have the right peaceably to assemble, to consult for the common good, to instruct their representatives and to petition the government for redress of grievances.

Sec. 4. Every person shall be at liberty to worship God according to the dictates of his own conscience. No person shall be compelled to attend, or, against his consent, to contribute to the erection or support of any place of religious worship, or to pay tithes, taxes or other rates for the support of any minister of the gospel or teacher of religion. No money shall be appropriated or drawn from the treasury for the benefit of any religious sect or society, theological or religious seminary; nor shall property belonging to the state be appropriated for any such purpose. The civil and political rights, privileges and capacities of no person shall be diminished or enlarged on account of his religious belief.

Sec. 5. Every person may freely speak, write, express and publish his views on all subjects, being responsible for the abuse of such right; and no law shall be enacted to restrain or abridge the liberty of speech or of the press.

Sec. 6. Every person has a right to keep and bear arms for the defense of himself and the state.

Sec. 7. The military shall in all cases and at all times be in strict subordination to the civil power.

Sec. 8. No soldier shall, in time of peace, be quartered in any house without the consent of the owner or occupant, nor in time of war, except in a manner prescribed by law.

Sec. 9. Neither slavery, nor involuntary servitude unless for the punishment of crime, shall ever be tolerated in this state.

Sec. 10. No bill of attainder, ex post facto law or law impairing the obligation of contract shall be enacted.

Sec. 11. The person, houses, papers and possessions of every person shall be secure from unreasonable searches and seizures. No warrant to search any place or to seize any person or things shall issue without describing them, nor without probable cause, supported by oath or affirmation. The provisions of this section shall not be construed to bar from evidence in any criminal proceeding any narcotic drug, firearm, bomb, explosive or any other dangerous weapon, seized by a peace officer outside the curtilage of any dwelling house in this state.

Sec. 12. The privilege of the writ of habeas corpus shall not be suspended unless in case of rebellion or invasion the public safety may require it.

Sec. 13. A suitor in any court of this state has the right to prosecute or defend his suit, either in his own proper person or by an attorney.

Sec. 14. The right of trial by jury shall remain, but shall be waived in all civil cases unless demanded by one of the parties in the manner prescribed by law. In all civil cases tried by 12 jurors a verdict shall be received when 10 jurors agree.

Sec. 15. No person shall be subject for the same offense to be twice put in jeopardy. All persons shall, before conviction, be bailable by sufficient sureties, except for murder and treason when the proof is evident or the presumption great.

Sec. 16. Excessive bail shall not be required; excessive fines shall not be imposed; cruel or unusual punishment shall not be inflicted; nor shall witnesses be unreasonably detained.

Sec. 17. No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed.

Sec. 18. No person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief.

Sec. 19. In all prosecutions for libels the truth may be given in evidence to the jury; and, if it appears to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the accused shall be acquitted.

Sec. 20. In every criminal prosecution, the accused shall have the right to a speedy and public trial by an impartial jury, which may consist of less than 12 jurors in all courts not of record; to be informed of the nature of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; to have the assistance of counsel for his defense; to have an appeal as a matter of right; and in courts of record, when the trial court so orders, to have such reasonable assistance as may be necessary to perfect and prosecute an appeal.

Sec. 21. No person shall be imprisoned for debt arising out of or founded on contract, express or implied, except in cases of fraud or breach of trust.

Sec. 22. Treason against the state shall consist only in levying war against it or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless upon the testimony of two witnesses to the same overt act or on confession in open court.

Sec. 23. The enumeration in this constitution of certain rights shall not be construed to deny or disparage others retained by the people.

## ARTICLE II

### Elections

Sec. 1. Every citizen of the United States who has attained the age of 21 years, who has resided in this state six months, and who meets the requirements of local residence provided by law, shall be an elector and qualified to vote in any election except as otherwise provided in this constitution. The legislature shall define residence for voting purposes.

Sec. 2. The legislature may by law exclude persons from voting because of mental incompetence or commitment to a jail or penal institution.

Sec. 3. For purposes of voting in the election for president and vice-president of the United States only, the legislature may by law establish lesser residence requirements for citizens who have resided in this state for less than six months and may waive residence requirements for former citizens of this state who have removed herefrom. The legislature shall not permit voting by any person who meets the voting residence requirements of the state to which he has removed.

Sec. 4. The legislature shall enact laws to regulate the time, place and manner of all nominations and elections, except as otherwise provided in this constitution or in the constitution and laws of the United States. The legislature shall enact laws to preserve the purity of elections, to preserve the secrecy of the ballot, to guard against abuses of the elective franchise, and to provide for a system of voter registration and absentee voting. No law shall be enacted which permits a candidate in any partisan primary or partisan election to have a ballot designation except when required for identification of candidates for the same office who have the same or similar surnames.

Sec. 5. Except for special elections to fill vacancies, or as otherwise provided in this constitution, all elections for national, state, county and township offices shall be held on the first Tuesday after the first Monday in November in each even-numbered year or on such other date as members of the congress of the United States are regularly elected.

Sec. 6. Whenever any question is required to be submitted by a political subdivision to the electors for the increase of the ad valorem tax rate limitation imposed by Section 6 of Article IX for a period of more than five years, or for the issue of bonds, only electors in, and who have property assessed for any ad valorem taxes in, any part of the district or territory to be affected by the result of such election or electors who are the lawful husbands or wives of such persons shall be entitled to vote thereon. All electors in the district or territory affected may vote on all other questions.

Sec. 7. A board of state canvassers of four members shall be established by law. No candidate for an office to be canvassed nor any inspector of elections shall be eligible to serve as a member of a board of canvassers. A majority of any board of canvassers shall not be composed of members of the same political party.

Sec. 8. Laws shall be enacted to provide for the recall of all elective officers except judges of courts of record upon petition of electors equal in number to 25 percent of the number of persons voting in the last preceding election for the office of governor in the electoral district of the officer sought to be recalled. The sufficiency of any statement of reasons or grounds procedurally required shall be a political rather than a judicial question.

Sec. 9. The people reserve to themselves the power to propose laws and to enact and reject laws, called the initiative, and the power to approve or reject laws enacted by the legislature, called the referendum. The power of initiative extends only to laws which the legislature may enact under this constitution. The power of referendum does not extend to acts making appropriations for state institutions or to meet deficiencies in state funds and must be invoked in the manner prescribed by law within 90 days following the final adjournment of the legislative session at which the law was enacted. To invoke the initiative or referendum, petitions signed by a number of registered electors, not less than eight percent for initiative and five percent for referendum of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected shall be required.

No law as to which the power of referendum properly has been invoked shall be effective thereafter unless approved by a majority of the electors voting thereon at the next general election.

Any law proposed by initiative petition shall be either enacted or rejected by the legislature without change or amendment within 40 session days from the time such petition is received by the legislature. If any law proposed by such petition shall be enacted by the legislature it shall be subject to referendum, as hereinafter provided.

If the law so proposed is not enacted by the legislature within the 40 days, the state officer authorized by law shall submit such proposed law to the people for approval or rejection at the next general election. The legislature may reject any measure so proposed by initiative petition and propose a different measure upon the same subject by a yea and nay vote upon separate roll calls, and in such event both measures shall be submitted by such state officer to the electors for approval or rejection at the next general election.

Any law submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon at any election shall take effect 10 days after the date of the official declaration of the vote. No law initiated or adopted by the people shall be subject to the veto power of the governor, and no law adopted by the people at the polls under the initiative provisions of this section shall be amended or repealed, except by a vote of the electors unless otherwise provided in the initiative measure or by three-fourths of the members elected to and serving in each house of the legislature. Laws approved by the people under the referendum provision of this section may be amended by the legislature at any subsequent session thereof. If two or more measures approved by the electors at the same election conflict, that receiving the highest affirmative vote shall prevail.

The legislature shall implement the provisions of this section.

### ARTICLE III

#### General Government

Sec. 1. The seat of government shall be at Lansing.

Sec. 2. The powers of government are divided into three branches: legislative, executive and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this constitution.

Sec. 3. There shall be a great seal of the State of Michigan and its use shall be provided by law.

Sec. 4. The militia shall be organized, equipped and disciplined as provided by law.

Sec. 5. Subject to provisions of general law, this state or any political subdivision thereof, any governmental authority or any combination thereof may enter into agreements for the performance, financing or execution of their respective functions, with any one or more of the other states, the United States, the Dominion of Canada, or any political subdivision thereof unless otherwise provided in this constitution. Any other provision of this constitution notwithstanding, an officer or employee of the state or of any such unit of government or subdivision or agency thereof may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service. The legislature may impose such restrictions, limitations or conditions on such service as it may deem appropriate.

Sec. 6. The state shall not be a party to, nor be financially interested in, any work of internal improvement, nor engage in carrying on any such work, except for public internal improvements provided by law.

Sec. 7. The common law and the statute laws now in force, not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are changed, amended or repealed.

Sec. 8. Either house of the legislature or the governor may request the opinion of the supreme court on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date.

### ARTICLE IV

#### Legislative Branch

Sec. 1. The legislative power of the State of Michigan is vested in a senate and a house of representatives.

Sec. 2. The senate shall consist of 38 members to be elected from single member districts at the same election as the governor for four-year terms concurrent with the term of office of the governor.

In districting the state for the purpose of electing senators after the official publication of the total population count of each federal decennial census, each county shall be assigned apportionment factors equal to the sum of its percentage of the state's population as shown by the last regular federal decennial census computed to the nearest one-one hundredth of one percent multiplied by four and its percentage of the state's land area computed to the nearest one-one hundredth of one percent.

In arranging the state into senatorial districts, the apportionment commission shall be governed by the following rules:

(1) Counties with 13 or more apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. After each such county has been allocated one senator, the remaining senators to which this class of counties is entitled shall be distributed among such counties by the method of equal proportions applied to the apportionment factors.

(2) Counties having less than 13 apportionment factors shall be entitled as a class to senators in the proportion that the total apportionment factors of such counties bear to the total apportionment factors of the state computed to the nearest whole number. Such counties shall thereafter be arranged into senatorial districts that are compact, convenient, and contiguous by land, as rectangular in shape as possible, and having as nearly as possible 13 apportionment factors, but in no event less than 10 or more than 16. Insofar as possible, existing senatorial districts at the time of reapportionment shall not be altered unless there is a failure to comply with the above standards.

(3) Counties entitled to two or more senators shall be divided into single member districts. The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the county by the number of senators to which it is entitled. Each such district shall follow incorporated city or township boundary lines to the extent possible and shall be compact, contiguous, and as nearly uniform in shape as possible.

Sec. 3. The house of representatives shall consist of 110 members elected for two-year terms from single member districts apportioned on a basis of population as provided in this article. The districts shall consist of compact and convenient territory contiguous by land.

Each county which has a population of not less than seven-tenths of one percent of the population of the state shall constitute a separate representative area. Each county having less than seven-tenths of one percent of the population of the state shall be combined with another county or counties to form a representative area of not less than seven-tenths of one percent of the population of the state. Any county which is isolated under the initial allocation as provided in this section shall be joined with that contiguous representative area having the smallest percentage of the state's population. Each such representative area shall be entitled initially to one representative.

After the assignment of one representative to each of the representative areas, the remaining house seats shall be apportioned among the representative areas on the basis of population by the method of equal proportions.

Any county comprising a representative area entitled to two or more representatives shall be divided into single member representative districts as follows:

(1) The population of such districts shall be as nearly equal as possible but shall not be less than 75 percent nor more than 125 percent of a number determined by dividing the population of the representative area by the number of representatives to which it is entitled.

(2) Such single member districts shall follow city and township boundaries where applicable and shall be composed of compact and contiguous territory as nearly square in shape as possible.

Any representative area consisting of more than one county, entitled to more than one representative, shall be divided into single member districts as equal as possible in population, adhering to county lines.



Sec. 4. In counties having more than one representative or senatorial district, the territory in the same county annexed to or merged with a city between apportionments shall become a part of a contiguous representative or senatorial district in the city with which it is combined, if provided by ordinance of the city. The district or districts with which the territory shall be combined shall be determined by such ordinance certified to the secretary of state. No such change in the boundaries of a representative or senatorial district shall have the effect of removing a legislator from office during his term.

Sec. 5. Island areas are considered to be contiguous by land to the county of which they are a part.

Sec. 6. A commission on legislative apportionment is hereby established consisting of eight electors, four of whom shall be selected by the state organizations of each of the two political parties whose candidates for governor received the highest vote at the last general election at which a governor was elected preceding each apportionment. If a candidate for governor of a third political party has received at such election more than 25 percent of such gubernatorial vote, the commission shall consist of 12 members, four of whom shall be selected by the state organization of the third political party. One resident of each of the following four regions shall be selected by each political party organization: (1) the upper peninsula; (2) the northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) southwestern Michigan, those counties south of region (2) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) southeastern Michigan, the remaining counties of the state.

No officers or employees of the federal, state or local governments, excepting notaries public and members of the armed forces reserve, shall be eligible for membership on the commission. Members of the commission shall not be eligible for election to the legislature until two years after the apportionment in which they participated becomes effective.

The commission shall be appointed immediately after the adoption of this constitution and whenever apportionment or districting of the legislature is required by the provisions of this constitution. Members of the commission shall hold office until each apportionment or districting plan becomes effective. Vacancies shall be filled in the same manner as for original appointment.

The secretary of state shall be secretary of the commission without vote, and in that capacity shall furnish, under the direction of the commission, all necessary technical services. The commission shall elect its own chairman, shall make its own rules of procedure, and shall receive compensation provided by law. The legislature shall appropriate funds to enable the commission to carry out its activities.

Within 30 days after the adoption of this constitution, and after the official total population count of each federal decennial census of the state and its political subdivisions is available, the secretary of state shall issue a call convening the commission not less than 30 nor more than 45 days thereafter. The commission shall complete its work within 180 days after all necessary census information is available. The commission shall proceed to district and apportion the senate and house of representatives according to the provisions of this constitution. All final decisions shall require the concurrence of a majority of the members of the commission. The commission shall hold public hearings as may be provided by law.

Each final apportionment and districting plan shall be published as provided by law within 30 days from the date of its adoption and shall become law 60 days after

publication. The secretary of state shall keep a public record of all the proceedings of the commission and shall be responsible for the publication and distribution of each plan.

If a majority of the commission cannot agree on a plan, each member of the commission, individually or jointly with other members, may submit a proposed plan to the supreme court. The supreme court shall determine which plan complies most accurately with the constitutional requirements and shall direct that it be adopted by the commission and published as provided in this section.

Upon the application of any elector filed not later than 60 days after final publication of the plan, the supreme court, in the exercise of original jurisdiction, shall direct the secretary of state or the commission to perform their duties, may review any final plan adopted by the commission, and shall remand such plan to the commission for further action if it fails to comply with the requirements of this constitution.

Sec. 7. Each senator and representative must be a citizen of the United States, at least 21 years of age, and an elector of the district he represents. The removal of his domicile from the district shall be deemed a vacation of the office. No person who has been convicted of subversion or who has within the preceding 20 years been convicted of a felony involving a breach of public trust shall be eligible for either house of the legislature.

Sec. 8. No person holding any office, employment or position under the United States or this state or a political subdivision thereof, except notaries public and members of the armed forces reserve, may be a member of either house of the legislature.

Sec. 9. No person elected to the legislature shall receive any civil appointment within this state from the governor, except notaries public, from the legislature, or from any other state authority, during the term for which he is elected.

Sec. 10. No member of the legislature nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest. The legislature shall further implement this provision by appropriate legislation.

Sec. 11. Senators and representatives shall be privileged from civil arrest and civil process during sessions of the legislature and for five days next before the commencement and after the termination thereof. They shall not be questioned in any other place for any speech in either house.

Sec. 12. The compensation and expense allowances of the members of the legislature shall be determined by law. Changes in compensation or expense allowances shall become effective only when legislators commence their terms of office after a general election.

Sec. 13. The legislature shall meet at the seat of government on the second Wednesday in January of each year at twelve o'clock noon. Each regular session shall adjourn without day, on a day determined by concurrent resolution, at twelve o'clock noon. Any business, bill or joint resolution pending at the final adjournment of a regular session held in an odd numbered year shall carry over with the same status to the next regular session.

Sec. 14. A majority of the members elected to and serving in each house shall constitute a quorum to do business. A smaller number in each house may adjourn from day to day, and may compel the attendance of absent members in the manner and with penalties as each house may prescribe.

Sec. 15. There shall be a bi-partisan legislative council consisting of legislators appointed in the manner prescribed by law. The legislature shall appropriate funds for the council's operations and provide for its staff which shall maintain bill drafting, research and other services for the members of the legislature. The council shall periodically examine and recommend to the legislature revision of the various laws of the state.

Sec. 16. Each house, except as otherwise provided in this constitution, shall choose its own officers and determine the rules of its proceedings, but shall not adopt any rule that will prevent a majority of the members elected thereto and serving therein from discharging a committee from the further consideration of any measure. Each house shall be the sole judge of the qualifications, elections and returns of its members, and may, with the concurrence of two-thirds of all the members elected thereto and serving therein, expel a member. The reasons for such expulsion shall be entered in the journal, with the votes and names of the members voting upon the question. No member shall be expelled a second time for the same cause.

Sec. 17. Each house of the legislature may establish the committees necessary for the efficient conduct of its business and the legislature may create joint committees. On all actions on bills and resolutions in each committee, names and votes of members shall be recorded. Such vote shall be available for public inspection. Notice of all committee hearings and a clear statement of all subjects to be considered at each hearing shall be published in the journal in advance of the hearing.

Sec. 18. Each house shall keep a journal of its proceedings, and publish the same unless the public security otherwise requires. The record of the vote and name of the members of either house voting on any question shall be entered in the journal at the request of one-fifth of the members present. Any member of either house may dissent from and protest against any act, proceeding or resolution which he deems injurious to any person or the public, and have the reason for his dissent entered in the journal.

Sec. 19. All elections in either house or in joint convention and all votes on appointments submitted to the senate for advice and consent shall be published by vote and name in the journal.

Sec. 20. The doors of each house shall be open unless the public security otherwise requires.

Sec. 21. Neither house shall, without the consent of the other, adjourn for more than two intervening calendar days, nor to any place other than where the legislature may then be in session.

Sec. 22. All legislation shall be by bill and may originate in either house.

Sec. 23. The style of the laws shall be: The People of the State of Michigan enact.

Sec. 24. No law shall embrace more than one object, which shall be expressed in its title. No bill shall be altered or amended on its passage through either house so as to change its original purpose as determined by its total content and not alone by its title.

Sec. 25. No law shall be revised, altered or amended by reference to its title only. The section or sections of the act altered or amended shall be re-enacted and published at length.

Sec. 26. No bill shall be passed or become a law at any regular session of the legislature until it has been printed or reproduced and in the possession of each house for

at least five days. Every bill shall be read three times in each house before the final passage thereof. No bill shall become a law without the concurrence of a majority of the members elected to and serving in each house. On the final passage of bills, the votes and names of the members voting thereon shall be entered in the journal.

Sec. 27. No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.

Sec. 28. When the legislature is convened on extraordinary occasions in special session no bill shall be passed on any subjects other than those expressly stated in the governor's proclamation or submitted by special message.

Sec. 29. The legislature shall pass no local or special act in any case where a general act can be made applicable, and whether a general act can be made applicable shall be a judicial question. No local or special act shall take effect until approved by two-thirds of the members elected to and serving in each house and by a majority of the electors voting thereon in the district affected. Any act repealing local or special acts shall require only a majority of the members elected to and serving in each house and shall not require submission to the electors of such district.

Sec. 30. The assent of two-thirds of the members elected to and serving in each house of the legislature shall be required for the appropriation of public money or property for local or private purposes.

Sec. 31. The general appropriation bills for the succeeding fiscal period covering items set forth in the budget shall be passed or rejected in either house of the legislature before that house passes any appropriation bill for items not in the budget except bills supplementing appropriations for the current fiscal year's operation. Any bill requiring an appropriation to carry out its purpose shall be considered an appropriation bill. One of the general appropriation bills as passed by the legislature shall contain an itemized statement of estimated revenue by major source in each operating fund for the ensuing fiscal period, the total of which shall not be less than the total of all appropriations made from each fund in the general appropriation bills as passed.

Sec. 32. Every law which imposes, continues or revives a tax shall distinctly state the tax.

Sec. 33. Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law. If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves, and the legislature continues the session at which the bill was passed, he shall return it within such 14-day period with his objections, to the house in which it originated. That house shall enter such objections in full in its journal and reconsider the bill. If two-thirds of the members elected to and serving in that house pass the bill notwithstanding the objections of the governor, it shall be sent with the objections to the other house for reconsideration. The bill shall become law if passed by two-thirds of the members elected to and serving in that house. The vote of each house shall be entered in the journal with the votes and names of the members voting thereon. If any bill is not returned by the governor within such 14-day period, the legislature continuing in session, it shall become law as if he had signed it.

Sec. 34. Any bill passed by the legislature and approved by the governor, except a bill appropriating money, may provide that it will not become law unless approved by a majority of the electors voting thereon.

Sec. 35. All laws enacted at any session of the legislature shall be published in book form within 60 days after final adjournment of the session, and shall be distributed in the manner provided by law. The prompt publication of judicial decisions shall be provided by law. All laws and judicial decisions shall be free for publication by any person.

Sec. 36. No general revision of the laws shall be made. The legislature may provide for a compilation of the laws in force, arranged without alteration, under appropriate heads and titles.

Sec. 37. The legislature may by concurrent resolution empower a joint committee of the legislature, acting between sessions, to suspend any rule or regulation promulgated by an administrative agency subsequent to the adjournment of the last preceding regular legislative session. Such suspension shall continue no longer than the end of the next regular legislative session.

Sec. 38. The legislature may provide by law the cases in which any office shall be vacant and the manner of filling vacancies where no provision is made in this constitution.

Sec. 39. In order to insure continuity of state and local governmental operations in periods of emergency only, resulting from disasters occurring in this state caused by enemy attack on the United States, the legislature may provide by law for prompt and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices; and enact other laws necessary and proper for insuring the continuity of governmental operations. Notwithstanding the power conferred by this section, elections shall always be called as soon as possible to fill any vacancies in elective offices temporarily occupied by operation of any legislation enacted pursuant to the provisions of this section.

Sec. 40. The legislature may by law establish a liquor control commission which, subject to statutory limitations, shall exercise complete control of the alcoholic beverage traffic within this state, including the retail sales thereof. The legislature may provide for an excise tax on such sales. Neither the legislature nor the commission may authorize the manufacture or sale of alcoholic beverages in any county in which a majority of the electors voting thereon shall prohibit the same.

Sec. 41. The legislature shall not authorize any lottery nor permit the sale of lottery tickets.

Sec. 42. The legislature may provide for the incorporation of ports and port districts, and confer power and authority upon them to engage in work of internal improvements in connection therewith.

Sec. 43. No general law providing for the incorporation of trust companies or corporations for banking purposes, or regulating the business thereof, shall be enacted, amended or repealed except by a vote of two-thirds of the members elected to and serving in each house.

Sec. 44. The legislature may authorize a trial by a jury of less than 12 jurors in civil cases.

Sec. 45. The legislature may provide for indeterminate sentences as punishment for crime and for the detention and release of persons imprisoned or detained under such sentences.

Sec. 46. No law shall be enacted providing for the penalty of death.

Sec. 47. The legislature may authorize the employment of chaplains in state institutions of detention or confinement.

Sec. 48. The legislature may enact laws providing for the resolution of disputes concerning public employees, except those in the state classified civil service.

Sec. 49. The legislature may enact laws relative to the hours and conditions of employment.

Sec. 50. The legislature may provide safety measures and regulate the use of atomic energy and forms of energy developed in the future, having in view the general welfare of the people of this state.

Sec. 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

Sec. 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction.

Sec. 53. The legislature by a majority vote of the members elected to and serving in each house, shall appoint an auditor general, who shall be a certified public accountant licensed to practice in this state, to serve for a term of eight years. He shall be ineligible for appointment or election to any other public office in this state from which compensation is derived while serving as auditor general and for two years following the termination of his service. He may be removed for cause at any time by a two-thirds vote of the members elected to and serving in each house. The auditor general shall conduct post audits of financial transactions and accounts of the state and of all branches, departments, offices, boards, commissions, agencies, authorities and institutions of the state established by this constitution or by law, and performance post audits thereof.

The auditor general upon direction by the legislature may employ independent accounting firms or legal counsel and may make investigations pertinent to the conduct of audits. He shall report annually to the legislature and to the governor and at such other times as he deems necessary or as required by the legislature. He shall be assigned no duties other than those specified in this section.

Nothing in this section shall be construed in any way to infringe the responsibility and constitutional authority of the governing boards of the institutions of higher education to be solely responsible for the control and direction of all expenditures from the institutions' funds.

The auditor general, his deputy and one other member of his staff shall be exempt from classified civil service. All other members of his staff shall have classified civil service status.

## ARTICLE V

### Executive Branch

Sec. 1. The executive power is vested in the governor.

Sec. 2. All executive and administrative offices, agencies and instrumentalities of the executive branch of state government and their respective functions, powers and



duties, except for the office of governor and lieutenant governor and the governing bodies of institutions of higher education provided for in this constitution, shall be allocated by law among and within not more than 20 principal departments. They shall be grouped as far as practicable according to major purposes.

Subsequent to the initial allocation, the governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders and submitted to the legislature. Thereafter the legislature shall have 60 calendar days of a regular session, or a full regular session if of shorter duration, to disapprove each executive order. Unless disapproved in both houses by a resolution concurred in by a majority of the members elected to and serving in each house, each order shall become effective at a date thereafter to be designated by the governor.

Sec. 3. The head of each principal department shall be a single executive unless otherwise provided in this constitution or by law. The single executives heading principal departments shall include a secretary of state, a state treasurer and an attorney general. When a single executive is the head of a principal department, unless elected or appointed as otherwise provided in this constitution, he shall be appointed by the governor by and with the advice and consent of the senate and he shall serve at the pleasure of the governor.

When a board or commission is at the head of a principal department, unless elected or appointed as otherwise provided in this constitution, the members thereof shall be appointed by the governor by and with the advice and consent of the senate. The term of office and procedure for removal of such members shall be as prescribed in this constitution or by law.

Terms of office of any board or commission created or enlarged after the effective date of this constitution shall not exceed four years except as otherwise authorized in this constitution. The terms of office of existing boards and commissions which are longer than four years shall not be further extended except as provided in this constitution.

Sec. 4. Temporary commissions or agencies for special purposes with a life of no more than two years may be established by law and need not be allocated within a principal department.

Sec. 5. A majority of the members of an appointed examining or licensing board of a profession shall be members of that profession.

Sec. 6. Appointment by and with the advice and consent of the senate when used in this constitution or laws in effect or hereafter enacted means appointment subject to disapproval by a majority vote of the members elected to and serving in the senate if such action is taken within 60 session days after the date of such appointment. Any appointment not disapproved within such period shall stand confirmed.

Sec. 7. Vacancies in any office, appointment to which requires advice and consent of the senate, shall be filled by the governor by and with the advice and consent of the senate. A person whose appointment has been disapproved by the senate shall not be eligible for an interim appointment to the same office.

Sec. 8. Each principal department shall be under the supervision of the governor unless otherwise provided by this constitution. The governor shall take care that the laws be faithfully executed. He shall transact all necessary business with the officers of

government and may require information in writing from all executive and administrative state officers, elective and appointive, upon any subject relating to the duties of their respective offices.

The governor may initiate court proceedings in the name of the state to enforce compliance with any constitutional or legislative mandate, or to restrain violations of any constitutional or legislative power, duty or right by any officer, department or agency of the state or any of its political subdivisions. This authority shall not be construed to authorize court proceedings against the legislature.

Sec. 9. Single executives heading principal departments and the chief executive officers of principal departments headed by boards or commissions shall keep their offices at the seat of government except as otherwise provided by law, superintend them in person and perform duties prescribed by law.

Sec. 10. The governor shall have power and it shall be his duty to inquire into the condition and administration of any public office and the acts of any public officer, elective or appointive. He may remove or suspend from office for gross neglect of duty or for corrupt conduct in office, or for any other misfeasance or malfeasance therein, any elective or appointive state officer, except legislative or judicial, and shall report the reasons for such removal or suspension to the legislature.

Sec. 11. The governor may make a provisional appointment to fill a vacancy occasioned by the suspension of an appointed or elected officer, other than a legislative or judicial officer, until he is reinstated or until the vacancy is filled in the manner prescribed by law or this constitution.

Sec. 12. The governor shall be commander-in-chief of the armed forces and may call them out to execute the laws, suppress insurrection and repel invasion.

Sec. 13. The governor shall issue writs of election to fill vacancies in the senate or house of representatives. Any such election shall be held in a manner prescribed by law.

Sec. 14. The governor shall have power to grant reprieves, commutations and pardons after convictions for all offenses, except cases of impeachment, upon such conditions and limitations as he may direct, subject to procedures and regulations prescribed by law. He shall inform the legislature annually of each reprieve, commutation and pardon granted, stating reasons therefor.

Sec. 15. The governor may convene the legislature on extraordinary occasions.

Sec. 16. The governor may convene the legislature at some other place when the seat of government becomes dangerous from any cause.

Sec. 17. The governor shall communicate by message to the legislature at the beginning of each session and may at other times present to the legislature information as to the affairs of the state and recommend measures he considers necessary or desirable.

Sec. 18. The governor shall submit to the legislature at a time fixed by law, a budget for the ensuing fiscal period setting forth in detail, for all operating funds, the proposed expenditures and estimated revenue of the state. Proposed expenditures from any fund shall not exceed the estimated revenue thereof. On the same date, the governor shall submit to the legislature general appropriation bills to embody the proposed expenditures and any necessary bill or bills to provide new or additional revenues to meet proposed expenditures. The amount of any surplus created or deficit incurred in any fund during the last preceding fiscal period shall be entered as an item in the budget and in one of the appropriation bills. The governor may submit amendments to appropriation bills to be offered in either house during consideration of the bill by that house, and shall submit bills to meet deficiencies in current appropriations.

Sec. 19. The governor may disapprove any distinct item or items appropriating moneys in any appropriation bill. The part or parts approved shall become law, and the item or items disapproved shall be void unless re-passed according to the method prescribed for the passage of other bills over the executive veto.

Sec. 20. No appropriation shall be a mandate to spend. The governor, with the approval of the appropriating committees of the house and senate, shall reduce expenditures authorized by appropriations whenever it appears that actual revenues for a fiscal period will fall below the revenue estimates on which appropriations for that period were based. Reductions in expenditures shall be made in accordance with procedures prescribed by law. The governor may not reduce expenditures of the legislative and judicial branches or from funds constitutionally dedicated for specific purposes.

Sec. 21. The governor, lieutenant governor, secretary of state and attorney general shall be elected for four-year terms at the general election in each alternate even-numbered year.

The lieutenant governor, secretary of state and attorney general shall be nominated by party conventions in a manner prescribed by law. In the general election one vote shall be cast jointly for the candidates for governor and lieutenant governor nominated by the same party.

Vacancies in the office of the secretary of state and attorney general shall be filled by appointment by the governor.

Sec. 22. To be eligible for the office of governor or lieutenant governor a person must have attained the age of 30 years, and have been a registered elector in this state for four years next preceding his election.

Sec. 23. The governor, lieutenant governor, secretary of state and attorney general shall each receive the compensation provided by law in full payment for all services performed and expenses incurred during his term of office. Such compensation shall not be changed during the term of office except as otherwise provided in this constitution.

Sec. 24. An executive residence suitably furnished shall be provided at the seat of government for the use of the governor. He shall receive an allowance for its maintenance as provided by law.

Sec. 25. The lieutenant governor shall be president of the senate, but shall have no vote, unless they be equally divided. He may perform duties requested of him by the governor, but no power vested in the governor shall be delegated.

Sec. 26. In case of the conviction of the governor on impeachment, his removal from office, his resignation or his death, the lieutenant governor, the elected secretary of state, the elected attorney general and such other persons designated by law shall in that order be governor for the remainder of the governor's term.

In case of the death of the governor-elect, the lieutenant governor-elect, the secretary of state-elect, the attorney general-elect and such other persons designated by law shall become governor in that order at the commencement of the governor-elect's term.

If the governor or the person in line of succession to serve as governor is absent from the state, or suffering under an inability, the powers and duties of the office of governor shall devolve in order of precedence until the absence or inability giving rise to the devolution of powers ceases.

The inability of the governor or person acting as governor shall be determined by a majority of the supreme court on joint request of the president pro tempore of the senate and the speaker of the house of representatives. Such determination shall be final

and conclusive. The supreme court shall upon its own initiative determine if and when the inability ceases.

Sec. 27. The legislature shall provide that the salary of any state officer while acting as governor shall be equal to that of the governor.

Sec. 28. There is hereby established a state highway commission, which shall administer the state highway department and have jurisdiction and control over all state trunkline highways and appurtenant facilities, and such other public works of the state, as provided by law.

The state highway commission shall consist of four members, not more than two of whom shall be members of the same political party. They shall be appointed by the governor by and with the advice and consent of the senate for four-year terms, no two of which shall expire in the same year, as provided by law.

The state highway commission shall appoint and may remove a state highway director, who shall be a competent highway engineer and administrator. He shall be the principal executive officer of the state highway department and shall be responsible for executing the policy of the state highway commission.

Sec. 29. There is hereby established a civil rights commission which shall consist of eight persons, not more than four of whom shall be members of the same political party, who shall be appointed by the governor, by and with the advice and consent of the senate, for four-year terms not more than two of which shall expire in the same year. It shall be the duty of the commission in a manner which may be prescribed by law to investigate alleged discrimination against any person because of religion, race, color or national origin in the enjoyment of the civil rights guaranteed by law and by this constitution, and to secure the equal protection of such civil rights without such discrimination. The legislature shall provide an annual appropriation for the effective operation of the commission.

The commission shall have power, in accordance with the provisions of this constitution and of general laws governing administrative agencies, to promulgate rules and regulations for its own procedures, to hold hearings, administer oaths, through court authorization to require the attendance of witnesses and the submission of records, to take testimony, and to issue appropriate orders. The commission shall have other powers provided by law to carry out its purposes. Nothing contained in this section shall be construed to diminish the right of any party to direct and immediate legal or equitable remedies in the courts of this state.

Appeals from final orders of the commission, including cease and desist orders and refusals to issue complaints, shall be tried de novo before the circuit court having jurisdiction provided by law.

## ARTICLE VI

### Judicial Branch

Sec. 1. The judicial power of the state is vested exclusively in one court of justice which shall be divided into one supreme court, one court of appeals, one trial court of general jurisdiction known as the circuit court, one probate court, and courts of limited jurisdiction that the legislature may establish by a two-thirds vote of the members elected to and serving in each house.

Sec. 2. The supreme court shall consist of seven justices elected at non-partisan elections as provided by law. The term of office shall be eight years and not more than

two terms of office shall expire at the same time. Nominations for justices of the supreme court shall be in the manner prescribed by law. Any incumbent justice whose term is to expire may become a candidate for re-election by filing an affidavit of candidacy, in the form and manner prescribed by law, not less than 180 days prior to the expiration of his term.

Sec. 3. One justice of the supreme court shall be selected by the court as its chief justice as provided by rules of the court. He shall perform duties required by the court. The supreme court shall appoint an administrator of the courts and other assistants of the supreme court as may be necessary to aid in the administration of the courts of this state. The administrator shall perform administrative duties assigned by the court.

Sec. 4. The supreme court shall have general superintending control over all courts; power to issue, hear and determine prerogative and remedial writs; and appellate jurisdiction as provided by rules of the supreme court. The supreme court shall not have the power to remove a judge.

Sec. 5. The supreme court shall by general rules establish, modify, amend and simplify the practice and procedure in all courts of this state. The distinctions between law and equity proceedings shall, as far as practicable, be abolished. The office of master in chancery is prohibited.

Sec. 6. Decisions of the supreme court, including all decisions on prerogative writs, shall be in writing and shall contain a concise statement of the facts and reasons for each decision and reasons for each denial of leave to appeal. When a judge dissents in whole or in part he shall give in writing the reasons for his dissent.

Sec. 7. The supreme court may appoint, may remove, and shall have general supervision of its staff. It shall have control of the preparation of its budget recommendations and the expenditure of moneys appropriated for any purpose pertaining to the operation of the court or the performance of activities of its staff except that the salaries of the justices shall be established by law. All fees and perquisites collected by the court staff shall be turned over to the state treasury and credited to the general fund.

Sec. 8. The court of appeals shall consist initially of nine judges who shall be nominated and elected at non-partisan elections from districts drawn on county lines and as nearly as possible of equal population, as provided by law. The supreme court may prescribe by rule that the court of appeals sit in divisions and for the terms of court and the times and places thereof. Each such division shall consist of not fewer than three judges. The number of judges comprising the court of appeals may be increased, and the districts from which they are elected may be changed by law.

Sec. 9. Judges of the court of appeals shall hold office for a term of six years and until their successors are elected and qualified. The terms of office for the judges in each district shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 10. The jurisdiction of the court of appeals shall be provided by law and the practice and procedure therein shall be prescribed by rules of the supreme court.

Sec. 11. The state shall be divided into judicial circuits along county lines in each of which there shall be elected one or more circuit judges as provided by law. Sessions of the circuit court shall be held at least four times in each year in every county organized for judicial purposes. Each circuit judge shall hold court in the county or

counties within the circuit in which he is elected, and in other circuits as may be provided by rules of the supreme court. The number of judges may be changed and circuits may be created, altered and discontinued by law and the number of judges shall be changed and circuits shall be created, altered and discontinued on recommendation of the supreme court to reflect changes in judicial activity. No change in the number of judges or alteration or discontinuance of a circuit shall have the effect of removing a judge from office during his term.

Sec. 12. Circuit judges shall be nominated and elected at non-partisan elections in the circuit in which they reside, and shall hold office for a term of six years and until their successors are elected and qualified. In circuits having more than one circuit judge their terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 13. The circuit court shall have original jurisdiction in all matters not prohibited by law; appellate jurisdiction from all inferior courts and tribunals except as otherwise provided by law; power to issue, hear and determine prerogative and remedial writs; supervisory and general control over inferior courts and tribunals within their respective jurisdictions in accordance with rules of the supreme court; and jurisdiction of other cases and matters as provided by rules of the supreme court.

Sec. 14. The clerk of each county organized for judicial purposes or other officer performing the duties of such office as provided in a county charter shall be clerk of the circuit court for such county. The judges of the circuit court may fill a vacancy in an elective office of county clerk or prosecuting attorney within their respective jurisdictions.

Sec. 15. In each county organized for judicial purposes there shall be a probate court. The legislature may create or alter probate court districts of more than one county if approved in each affected county by a majority of the electors voting on the question. The legislature may provide for the combination of the office of probate judge with any judicial office of limited jurisdiction within a county with supplemental salary as provided by law. The jurisdiction, powers and duties of the probate court and of the judges thereof shall be provided by law. They shall have original jurisdiction in all cases of juvenile delinquents and dependents, except as otherwise provided by law.

Sec. 16. One or more judges of probate as provided by law shall be nominated and elected at non-partisan elections in the counties or the probate districts in which they reside and shall hold office for terms of six years and until their successors are elected and qualified. In counties or districts with more than one judge the terms of office shall be arranged by law to provide that not all terms will expire at the same time.

Sec. 17. No judge or justice of any court of this state shall be paid from the fees of his office nor shall the amount of his salary be measured by fees, other moneys received or the amount of judicial activity of his office.

Sec. 18. Salaries of justices of the supreme court, of the judges of the court of appeals, of the circuit judges within a circuit, and of the probate judges within a county or district, shall be uniform, and may be increased but shall not be decreased during a term of office except and only to the extent of a general salary reduction in all other branches of government.

Each of the judges of the circuit court shall receive an annual salary as provided by law. In addition to the salary received from the state, each circuit judge may receive from any county in which he regularly holds court an additional salary as determined



from time to time by the board of supervisors of the county. In any county where an additional salary is granted, it shall be paid at the same rate to all circuit judges regularly holding court therein.

Sec. 19. The supreme court, the court of appeals, the circuit court, the probate court and other courts designated as such by the legislature shall be courts of record and each shall have a common seal. Justices and judges of courts of record must be persons who are licensed to practice law in this state. No person shall be elected or appointed to a judicial office after reaching the age of 70 years.

Sec. 20. Whenever a justice or judge removes his domicile beyond the limits of the territory from which he was elected, he shall have vacated his office.

Sec. 21. Any justice or judge of a court of record shall be ineligible to be nominated for or elected to an elective office other than a judicial office during the period of his service and for one year thereafter.

Sec. 22. Any elected judge of the court of appeals, circuit court or probate court may become a candidate in the primary election for the office of which he is the incumbent by filing an affidavit of candidacy in the form and manner prescribed by law.

Sec. 23. A vacancy in the elective office of a judge of any court of record shall be filled at a general or special election as provided by law. The supreme court may authorize persons who have served as judges and who have retired, to perform judicial duties for the limited period of time from the occurrence of the vacancy until the successor is elected and qualified. Such persons shall be ineligible for election to fill the vacancy.

Sec. 24. There shall be printed upon the ballot under the name of each elected incumbent justice or judge who is a candidate for nomination or election to the same office the designation of that office.

Sec. 25. For reasonable cause, which is not sufficient ground for impeachment, the governor shall remove any judge on a concurrent resolution of two-thirds of the members elected to and serving in each house of the legislature. The cause for removal shall be stated at length in the resolution.

Sec. 26. The offices of circuit court commissioner and justice of the peace are abolished at the expiration of five years from the date this constitution becomes effective or may within this period be abolished by law. Their jurisdiction, compensation and powers within this period shall be as provided by law. Within this five-year period, the legislature shall establish a court or courts of limited jurisdiction with powers and jurisdiction defined by law. The location of such court or courts, and the qualifications, tenure, method of election and salary of the judges of such court or courts, and by what governmental units the judges shall be paid, shall be provided by law, subject to the limitations contained in this article.

Statutory courts in existence at the time this constitution becomes effective shall retain their powers and jurisdiction, except as provided by law, until they are abolished by law.

Sec. 27. The supreme court, the court of appeals, the circuit court, or any justices or judges thereof, shall not exercise any power of appointment to public office except as provided in this constitution.

Sec. 28. All final decisions, findings, rulings and orders of any administrative officer or agency existing under the constitution or by law, which are judicial or quasi-judicial and affect private rights or licenses, shall be subject to direct review by the courts as

provided by law. This review shall include, as a minimum, the determination whether such final decisions, findings, rulings and orders are authorized by law; and, in cases in which a hearing is required, whether the same are supported by competent, material and substantial evidence on the whole record. Findings of fact in workmen's compensation proceedings shall be conclusive in the absence of fraud unless otherwise provided by law.

In the absence of fraud, error of law or the adoption of wrong principles, no appeal may be taken to any court from any final agency provided for the administration of property tax laws from any decision relating to valuation or allocation.

Sec. 29. Justices of the supreme court, judges of the court of appeals, circuit judges and other judges as provided by law shall be conservators of the peace within their respective jurisdictions.

## ARTICLE VII

### Local Government

Sec. 1. Each organized county shall be a body corporate with powers and immunities provided by law.

Sec. 2. Any county may frame, adopt, amend or repeal a county charter in a manner and with powers and limitations to be provided by general law, which shall among other things provide for the election of a charter commission. The law may permit the organization of county government in form different from that set forth in this constitution and shall limit the rate of ad valorem property taxation for county purposes, and restrict the powers of charter counties to borrow money and contract debts. Each charter county is hereby granted power to levy other taxes for county purposes subject to limitations and prohibitions set forth in this constitution or law. Subject to law, a county charter may authorize the county through its regularly constituted authority to adopt resolutions and ordinances relating to its concerns.

The board of supervisors by a majority vote of its members may, and upon petition of five percent of the electors shall, place upon the ballot the question of electing a commission to frame a charter.

No county charter shall be adopted, amended or repealed until approved by a majority of electors voting on the question.

Sec. 3. No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed by the United States, unless approved in the manner prescribed by law by a majority of electors voting thereon in each county to be affected.

Sec. 4. There shall be elected for four-year terms in each organized county a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be provided by law. The board of supervisors in any county may combine the offices of county clerk and register of deeds in one office or separate the same at pleasure.

Sec. 5. The sheriff, county clerk, county treasurer and register of deeds shall hold their principal offices at the county seat.

Sec. 6. The sheriff may be required by law to renew his security periodically and in default of giving such security, his office shall be vacant. The county shall never be responsible for his acts, except that the board of supervisors may protect him against

claims by prisoners for unintentional injuries received while in his custody. He shall not hold any other office except in civil defense.

Sec. 7. A board of supervisors shall be established in each organized county consisting of one member from each organized township and such representation from cities as provided by law.

Sec. 8. Boards of supervisors shall have legislative, administrative and such other powers and duties as provided by law.

Sec. 9. Boards of supervisors shall have exclusive power to fix the compensation of county officers not otherwise provided by law.

Sec. 10. A county seat once established shall not be removed until the place to which it is proposed to be moved shall be designated by two-thirds of the members of the board of supervisors and a majority of the electors voting thereon shall have approved the proposed location in the manner prescribed by law.

Sec. 11. No county shall incur any indebtedness which shall increase its total debt beyond 10 percent of its assessed valuation.

Sec. 12. A navigable stream shall not be bridged or dammed without permission granted by the board of supervisors of the county as provided by law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and political subdivisions therein.

Sec. 13. Two or more contiguous counties may combine into a single county if approved in each affected county by a majority of the electors voting on the question.

Sec. 14. The board of supervisors of each organized county may organize and consolidate townships under restrictions and limitations provided by law.

Sec. 15. Any county, when authorized by its board of supervisors shall have the authority to enter or to intervene in any action or certificate proceeding involving the services, charges or rates of any privately owned public utility furnishing services or commodities to rate payers within the county.

Sec. 16. The legislature may provide for the laying out, construction, improvement and maintenance of highways, bridges, culverts and airports by the state and by the counties and townships thereof; and may authorize counties to take charge and control of any highway within their limits for such purposes. The legislature may provide the powers and duties of counties in relation to highways, bridges, culverts and airports; may provide for county road commissioners to be appointed or elected, with powers and duties provided by law. The ad valorem property tax imposed for road purposes by any county shall not exceed in any year one-half of one percent of the assessed valuation for the preceding year.

Sec. 17. Each organized township shall be a body corporate with powers and immunities provided by law.

Sec. 18. In each organized township there shall be elected for terms of not less than two nor more than four years as prescribed by law a supervisor, a clerk, a treasurer, and not to exceed four trustees, whose legislative and administrative powers and duties shall be provided by law.

Sec. 19. No organized township shall grant any public utility franchise which is not subject to revocation at the will of the township, unless the proposition shall first have been approved by a majority of the electors of such township voting thereon at a regular or special election.

Sec. 20. The legislature shall provide by law for the dissolution of township government whenever all the territory of an organized township is included within the boundaries of a village or villages notwithstanding that a village may include territory within another organized township and provide by law for the classification of such village or villages as cities.

Sec. 21. The legislature shall provide by general laws for the incorporation of cities and villages. Such laws shall limit their rate of ad valorem property taxation for municipal purposes, and restrict the powers of cities and villages to borrow money and contract debts. Each city and village is granted power to levy other taxes for public purposes, subject to limitations and prohibitions provided by this constitution or by law.

Sec. 22. Under general laws the electors of each city and village shall have the power and authority to frame, adopt and amend its charter, and to amend an existing charter of the city or village heretofore granted or enacted by the legislature for the government of the city or village. Each such city and village shall have power to adopt resolutions and ordinances relating to its municipal concerns, property and government, subject to the constitution and law. No enumeration of powers granted to cities and villages in this constitution shall limit or restrict the general grant of authority conferred by this section.

Sec. 23. Any city or village may acquire, own, establish and maintain, within or without its corporate limits, parks, boulevards, cemeteries, hospitals and all works which involve the public health or safety.

Sec. 24. Subject to this constitution, any city or village may acquire, own or operate, within or without its corporate limits, public service facilities for supplying water, light, heat, power, sewage disposal and transportation to the municipality and the inhabitants thereof.

Any city or village may sell and deliver heat, power or light without its corporate limits in an amount not exceeding 25 percent of that furnished by it within the corporate limits, except as greater amounts may be permitted by law; may sell and deliver water and provide sewage disposal services outside of its corporate limits in such amount as may be determined by the legislative body of the city or village; and may operate transportation lines outside the municipality within such limits as may be prescribed by law.

Sec. 25. No city or village shall acquire any public utility furnishing light, heat or power, or grant any public utility franchise which is not subject to revocation at the will of the city or village, unless the proposition shall first have been approved by three-fifths of the electors voting thereon. No city or village may sell any public utility unless the proposition shall first have been approved by a majority of the electors voting thereon, or a greater number if the charter shall so provide.

Sec. 26. Except as otherwise provided in this constitution, no city or village shall have the power to loan its credit for any private purpose or, except as provided by law, for any public purpose.

Sec. 27. Notwithstanding any other provision of this constitution the legislature may establish in metropolitan areas additional forms of government or authorities with powers, duties and jurisdictions as the legislature shall provide. Wherever possible, such additional forms of government or authorities shall be designed to perform multi-purpose functions rather than a single function.

Sec. 28. The legislature by general law shall authorize two or more counties, townships, cities, villages or districts, or any combination thereof among other things to:

enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government; lend their credit to one another or any combination thereof as provided by law in connection with any authorized publicly owned undertaking.

Any other provision of this constitution notwithstanding, an officer or employee of the state or any such unit of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the purposes set forth in this section and shall not be required to relinquish his office or employment by reason of such service.

Sec. 29. No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, township, city or village for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, township, city or village; or to transact local business therein without first obtaining a franchise from the township, city or village. Except as otherwise provided in this constitution the right of all counties, townships, cities and villages to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.

Sec. 30. No franchise or license shall be granted by any township, city or village for a period longer than 30 years.

Sec. 31. The legislature shall not vacate or alter any road, street, alley or public place under the jurisdiction of any county, township, city or village.

Sec. 32. Any county, township, city, village, authority or school district empowered by the legislature or by this constitution to prepare budgets of estimated expenditures and revenues shall adopt such budgets only after a public hearing in a manner prescribed by law.

Sec. 33. Any elected officer of a political subdivision may be removed from office in the manner and for the causes provided by law.

Sec. 34. The provisions of this constitution and law concerning counties, townships, cities and villages shall be liberally construed in their favor. Powers granted to counties and townships by this constitution and by law shall include those fairly implied and not prohibited by this constitution.

## ARTICLE VIII

### Education

Sec. 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

Sec. 2. The legislature shall maintain and support a system of free public elementary and secondary schools as defined by law. Every school district shall provide for the education of its pupils without discrimination as to religion, creed, race, color or national origin.

Sec. 3. Leadership and general supervision over all public education, including adult education and instructional programs in state institutions, except as to institutions of higher education granting baccalaureate degrees, is vested in a state board of education. It shall serve as the general planning and coordinating body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith.

The state board of education shall appoint a superintendent of public instruction whose term of office shall be determined by the board. He shall be the chairman of the board without the right to vote, and shall be responsible for the execution of its policies. He shall be the principal executive officer of a state department of education which shall have powers and duties provided by law.

The state board of education shall consist of eight members who shall be nominated by party conventions and elected at large for terms of eight years as prescribed by law. The governor shall fill any vacancy by appointment for the unexpired term. The governor shall be ex-officio a member of the state board of education without the right to vote.

The power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institutions' funds shall not be limited by this section.

Sec. 4. The legislature shall appropriate moneys to maintain the University of Michigan, Michigan State University, Wayne State University, Eastern Michigan University, Michigan College of Science and Technology, Central Michigan University, Northern Michigan University, Western Michigan University, Ferris Institute, Grand Valley State College, by whatever names such institutions may hereafter be known, and other institutions of higher education established by law. The legislature shall be given an annual accounting of all income and expenditures by each of these educational institutions. Formal sessions of governing boards of such institutions shall be open to the public.

Sec. 5. The regents of the University of Michigan and their successors in office shall constitute a body corporate known as the Regents of the University of Michigan; the trustees of Michigan State University and their successors in office shall constitute a body corporate known as the Board of Trustees of Michigan State University; the governors of Wayne State University and their successors in office shall constitute a body corporate known as the Board of Governors of Wayne State University. Each board shall have general supervision of its institution and the control and direction of all expenditures from the institution's funds. Each board shall, as often as necessary, elect a president of the institution under its supervision. He shall be the principal executive officer of the institution, be ex-officio a member of the board without the right to vote and preside at meetings of the board. The board of each institution shall consist of eight members who shall hold office for terms of eight years and who shall be elected as provided by law. The governor shall fill board vacancies by appointment. Each appointee shall hold office until a successor has been nominated and elected as provided by law.

Sec. 6. Other institutions of higher education established by law having authority to grant baccalaureate degrees shall each be governed by a board of control which shall be a body corporate. The board shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds. It shall, as often as necessary, elect a president of the institution under its supervision.



He shall be the principal executive officer of the institution and be ex-officio a member of the board without the right to vote. The board may elect one of its members or may designate the president, to preside at board meetings. Each board of control shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the governor by and with the advice and consent of the senate. Vacancies shall be filled in like manner.

Sec. 7. The legislature shall provide by law for the establishment and financial support of public community and junior colleges which shall be supervised and controlled by locally elected boards. The legislature shall provide by law for a state board for public community and junior colleges which shall advise the state board of education concerning general supervision and planning for such colleges and requests for annual appropriations for their support. The board shall consist of eight members who shall hold office for terms of eight years, not more than two of which shall expire in the same year, and who shall be appointed by the state board of education. Vacancies shall be filled in like manner. The superintendent of public instruction shall be ex-officio a member of this board without the right to vote.

Sec. 8. Institutions, programs and services for the care, treatment, education or rehabilitation of those inhabitants who are physically, mentally or otherwise seriously handicapped shall always be fostered and supported.

Sec. 9. The legislature shall provide by law for the establishment and support of public libraries which shall be available to all residents of the state under regulations adopted by the governing bodies thereof. All fines assessed and collected in the several counties, townships and cities for any breach of the penal laws shall be exclusively applied to the support of such public libraries, and county law libraries as provided by law.

## ARTICLE IX

### Finance and Taxation

Sec. 1. The legislature shall impose taxes sufficient with other resources to pay the expenses of state government.

Sec. 2. The power of taxation shall never be surrendered, suspended or contracted away.

Sec. 3. The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 percent; and for a system of equalization of assessments. The legislature may provide for alternative means of taxation of designated real and tangible personal property in lieu of general ad valorem taxation. Every tax other than the general ad valorem property tax shall be uniform upon the class or classes on which it operates.

Sec. 4. Property owned and occupied by non-profit religious or educational organizations and used exclusively for religious or educational purposes, as defined by law, shall be exempt from real and personal property taxes.

Sec. 5. The legislature shall provide for the assessment by the state of the property of those public service businesses assessed by the state at the date this constitution becomes effective, and of other property as designated by the legislature,

and for the imposition and collection of taxes thereon. Property assessed by the state shall be assessed at the same proportion of its true cash value as the legislature shall specify for property subject to general ad valorem taxation. The rate of taxation on such property shall be the average rate levied upon other property in this state under the general ad valorem tax law, or, if the legislature provides, the rate of tax applicable to the property of each business enterprise assessed by the state shall be the average rate of ad valorem taxation levied upon other property in all counties in which any of such property is situated.

Sec. 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes imposed upon real and tangible personal property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and for the townships and for school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. These limitations may be increased to an aggregate of not to exceed 50 mills on each dollar of valuation, for a period of not to exceed 20 years at any one time, if approved by a majority of the electors, qualified under Section 6 of Article II of this constitution, voting on the question.

The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount; or to taxes imposed for any other purpose by any city, village, charter county, charter township, charter authority or other authority, the tax limitations of which are provided by charter or by general law.

In any school district which extends into two or more counties, property taxes at the highest rate available in the county which contains the greatest part of the area of the district may be imposed and collected for school purposes throughout the district.

Sec. 7. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

Sec. 8. The legislature shall not impose a sales tax on retailers at a rate of more than four percent of their gross taxable sales of tangible personal property.

Sec. 9. All specific taxes, except general sales and use taxes and regulatory fees, imposed directly or indirectly on fuels sold or used to propel motor vehicles upon highways and on registered motor vehicles shall, after the payment of necessary collection expenses, be used exclusively for highway purposes as defined by law.

Sec. 10. One-eighth of all taxes imposed on retailers on taxable sales at retail of tangible personal property shall be used exclusively for assistance to townships, cities and villages, on a population basis as provided by law. In determining population the legislature may exclude any portion of the total number of persons who are wards, patients or convicts in any tax supported institution.

Sec. 11. There shall be established a state school aid fund which shall be used exclusively for aid to school districts, higher education and school employees' retirement systems, as provided by law. One-half of all taxes imposed on retailers on taxable sales at retail of tangible personal property, and other tax revenues provided by law, shall

be dedicated to this fund. Payments from this fund shall be made in full on a scheduled basis, as provided by law.

Sec. 12. No evidence of state indebtedness shall be issued except for debts authorized pursuant to this constitution.

Sec. 13. Public bodies corporate shall have power to borrow money and to issue their securities evidencing debt, subject to this constitution and law.

Sec. 14. To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 percent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

Sec. 15. The state may borrow money for specific purposes in amounts as may be provided by acts of the legislature adopted by a vote of two-thirds of the members elected to and serving in each house, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

Sec. 16. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

If the minimum amount which would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as finally equalized, or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall lend the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall lend to it an amount sufficient to enable the school district to make the payment.

The term "qualified bonds" means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued prior to May 4, 1955, or issued thereafter and qualified as provided by law pursuant to Section 27 or Section 28 of Article X of the Constitution of 1908 or pursuant to this section.

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used toward the repayment of state loans. In any year when such levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Subject to the foregoing provisions, the legislature shall have the power to prescribe and to limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

The power to tax for the payment of principal and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made to school districts, shall be without limitation as to rate or amount.

All rights acquired under Sections 27 and 28 of Article X of the Constitution of 1908, by holders of bonds heretofore issued, and all obligations assumed by the state or any school district under these sections, shall remain unimpaired.

Sec. 17. No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

Sec. 18. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

This section shall not be construed to prohibit the investment of public funds until needed for current requirements or the investment of funds accumulated to provide retirement or pension benefits for public officials and employees, as provided by law.

Sec. 19. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation, except that funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law; and endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

Sec. 20. No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money shall be deposited in any bank in excess of 50 percent of the capital and surplus of such bank. Any bank receiving deposits of state money shall show the amount of state money so deposited as a separate item in all published statements.

Sec. 21. The legislature shall provide by law for the annual accounting for all public moneys, state and local, and may provide by law for interim accounting.

The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.

Sec. 22. Procedures for the examination and adjustment of claims against the state shall be prescribed by law.

Sec. 23. All financial records, accountings, audit reports and other reports of public moneys shall be public records and open to inspection. A statement of all revenues and expenditures of public moneys shall be published and distributed annually, as provided by law.

Sec. 24. The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby.

Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be used for financing unfunded accrued liabilities.

## ARTICLE X

### Property

Sec. 1. The disabilities of coverture as to property are abolished. The real and personal estate of every woman acquired before marriage and all real and personal

property to which she may afterwards become entitled shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be dealt with and disposed of by her as if she were unmarried. Dower may be relinquished or conveyed as provided by law.

Sec. 2. Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law. Compensation shall be determined in proceedings in a court of record.

Sec. 3. A homestead in the amount of not less than \$3,500 and personal property of every resident of this state in the amount of not less than \$750, as defined by law, shall be exempt from forced sale on execution or other process of any court. Such exemptions shall not extend to any lien thereon excluded from exemption by law.

Sec. 4. Procedures relating to escheats and to the custody and disposition of escheated property shall be prescribed by law.

Sec. 5. The legislature shall have general supervisory jurisdiction over all state owned lands useful for forest preserves, game areas and recreational purposes; shall require annual reports as to such lands from all departments having supervision or control thereof; and shall by general law provide for the sale, lease or other disposition of such lands.

The legislature by an act adopted by two-thirds of the members elected to and serving in each house may designate any part of such lands as a state land reserve. No lands in the state land reserve may be removed from the reserve, sold, leased or otherwise disposed of except by an act of the legislature.

Sec. 6. Aliens who are residents of this state shall enjoy the same rights and privileges in property as citizens of this state.

## ARTICLE XI

### Public Officers and Employment

Sec. 1. All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of ..... according to the best of my ability. No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.

Sec. 2. The terms of office of elective state officers, members of the legislature and justices and judges of courts of record shall begin at twelve o'clock noon on the first day of January next succeeding their election, except as otherwise provided in this constitution. The terms of office of county officers shall begin on the first day of January next succeeding their election, except as otherwise provided by law.

Sec. 3. Neither the legislature nor any political subdivision of this state shall grant or authorize extra compensation to any public officer, agent or contractor after the service has been rendered or the contract entered into.

Sec. 4. No person having custody or control of public moneys shall be a member of the legislature, or be eligible to any office of trust or profit under this state, until he shall have made an accounting, as provided by law, of all sums for which he may be liable.

Sec. 5. The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the principal executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legislature, employees of the state institutions of higher education, all persons in the armed forces of the state, eight exempt positions in the office of the governor, and within each principal department, when requested by the department head, two other exempt positions, one of which shall be policy-making. The civil service commission may exempt three additional positions of a policy-making nature within each principal department.

The civil service commission shall be non-salaried and shall consist of four persons, not more than two of whom shall be members of the same political party, appointed by the governor for terms of eight years, no two of which shall expire in the same year.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

No person shall be appointed to or promoted in the classified service who has not been certified by the commission as qualified for such appointment or promotion. No appointments, promotions, demotions or removals in the classified service shall be made for religious, racial or partisan considerations.

Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year. Within 60 calendar days following such transmission, the legislature may, by a two-thirds vote of the members elected to and serving in each house, reject or reduce increases in rates of compensation authorized by the commission. Any reduction ordered by the legislature shall apply uniformly to all classes of employees affected by the increases and shall not adjust pay differentials already established by the civil service commission. The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission.

The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition or creation of a position shall have a right of appeal to the commission through established grievance procedures.

The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.



To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within six months after the conclusion of each fiscal year the commission shall return to the state treasury all moneys unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

No payment for personal services shall be made or authorized until the provisions of this constitution pertaining to civil service have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

Sec. 6. By ordinance or resolution of its governing body which shall not take effect until approved by a majority of the electors voting thereon, unless otherwise provided by charter, each county, township, city, village, school district and other governmental unit or authority may establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services to any such unit on a reimbursable basis.

Sec. 7. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected thereto and serving therein shall be necessary to direct an impeachment.

When an impeachment is directed, the house of representatives shall elect three of its members to prosecute the impeachment.

Every impeachment shall be tried by the senate immediately after the final adjournment of the legislature. The senators shall take an oath or affirmation truly and impartially to try and determine the impeachment according to the evidence. When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside.

No person shall be convicted without the concurrence of two-thirds of the senators elected and serving. Judgment in case of conviction shall not extend further than removal from office, but the person convicted shall be liable to punishment according to law.

No judicial officer shall exercise any of the functions of his office after an impeachment is directed until he is acquitted.

## ARTICLE XII

### Amendment and Revision

Sec. 1. Amendments to this constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by two-thirds of the members elected to and serving in each house on a vote with the names and vote of those voting entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct. If a majority of electors voting on a proposed amendment approve the same, it shall become part of the constitution and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved.

Sec. 2. Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. The person authorized by law to receive such petition shall upon its receipt determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next general election. Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.

If the proposed amendment is approved by a majority of the electors voting on the question, it shall become part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. If two or more amendments approved by the electors at the same election conflict, that amendment receiving the highest affirmative vote shall prevail.

Sec. 3. At the general election to be held in the year 1978, and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than six months after the proposal was certified as approved, the electors of each representative district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate at a partisan election. The delegates so elected shall convene at the seat of government on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. To fill a vacancy in the office of any delegate, the governor shall appoint a qualified resident of the same district who shall be a member of the same party as the delegate vacating the office. The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of

the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, with the names and vote of those voting entered in the journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

#### Schedule and Temporary Provisions

To insure the orderly transition from the constitution of 1908 to this constitution the following schedule and temporary provisions are set forth to be effective for such period as are thereby required.

Sec. 1. The attorney general shall recommend to the legislature as soon as practicable such changes as may be necessary to adapt existing laws to this constitution.

Sec. 2. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights existing on the effective date of this constitution shall continue unaffected except as modified in accordance with the provisions of this constitution.

Sec. 3. Except as otherwise provided in this constitution, all officers filling any office by election or appointment shall continue to exercise their powers and duties until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or the laws enacted pursuant thereto.

No provision of this constitution, or of law or of executive order authorized by this constitution shall shorten the term of any person elected to state office at a statewide election on or prior to the date on which this constitution is submitted to a vote. In the event the duties of any such officers shall not have been abolished or incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated or abolished.

Sec. 4. All officers elected at the same election that this constitution is submitted to the people for adoption shall take office and complete the term to which they were elected under the 1908 constitution and existing laws and continue to serve until their successors are elected and qualified pursuant to this constitution or law.

Sec. 5. Notwithstanding any other provision in this constitution, the governor, the lieutenant governor, the secretary of state, the attorney general and state senators shall be elected at the general election in 1964 to serve for two-year terms beginning on the first day of January next succeeding their election. The first election of such officers for four-year terms under this constitution shall be held at the general election in 1966.

Sec. 6. Notwithstanding the provisions of this constitution that the supreme court shall consist of seven justices it shall consist of eight justices until the time that a vacancy occurs as a result of death, retirement or resignation of a justice. The first such vacancy shall not be filled.

Sec. 7. Any judge of probate serving on the effective date of this constitution may serve the remainder of the term and be eligible to succeed himself for election

regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

Sec. 8. The provisions of Article VI providing that terms of judicial offices shall not all expire at the same time, shall be implemented by law providing that at the next election for such offices judges shall be elected for terms of varying length, none of which shall be shorter than the regular term provided for the office.

Sec. 9. The members of the state board of education provided for in Section 3 of Article VIII of this constitution shall first be elected at the first general election after the effective date of this constitution for the following terms: two shall be elected for two years, two for four years, two for six years, and two for eight years as prescribed by law.

The state board of education provided for in the constitution of 1908 is abolished at twelve o'clock noon January 1 of the year following the first general election under this constitution and the terms of members thereof shall then expire.

Sec. 10. The provisions of this constitution providing for members of boards of control of institutions of higher education and the state board of public community and junior colleges shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended, and may further provide that the initial terms of office of members may be less than eight years.

Sec. 11. The provisions of this constitution increasing the number of members of the Board of Trustees of Michigan State University and of the Board of Governors of Wayne State University to eight, and of their term of office to eight years, shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended one year, and may further provide that the initial terms of office of the additional members may be less than eight years.

Sec. 12. The initial allocation of departments by law pursuant to Section 2 of Article V of this constitution, shall be completed within two years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make the initial allocation.

Sec. 13. Contractual obligations of the state incurred pursuant to the constitution of 1908 shall continue to be obligations of the state.

For the retirement of notes and bonds issued under Section 26 of Article X of the 1908 constitution, there is hereby appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each year.

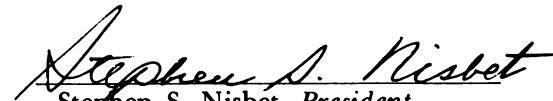
Sec. 14. The legislature by a vote of two-thirds of the members elected to and serving in each house may provide that the state may borrow money and may pledge its full faith and credit for refunding any bonds issued by the Mackinac Bridge Authority and at the time of refunding the Mackinac Bridge Authority shall be abolished and the operation of the bridge shall be assumed by the state highway department. The legislature may implement this section by law.

Sec. 15. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the first Monday in April, 1963. It shall be the duty of the secretary of state forthwith to give notice of such submission to all

other officers required to give or publish any notice in regard to a general election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.

Sec. 16. Every registered elector may vote on the adoption of the constitution. The board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office, the words: Shall the revised constitution be adopted? ( ) Yes. ( ) No. All votes cast at the election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. If the revised constitution so submitted receives more votes in its favor than were cast against it, it shall be the supreme law of the state on and after the first day of January of the year following its adoption.

Adopted by the Constitutional Convention of nineteen hundred sixty-one at Constitution Hall in Lansing on the first day of August, nineteen hundred sixty-two.

  
Stephen S. Nisbet, *President*

  
Fred I. Chase, *Secretary*

[ADDRESS TO THE PEOPLE]

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***What the Proposed  
New State Constitution  
Means to You***

- A report to the people of Michigan  
by their elected delegates to the  
Constitutional Convention of 1961-62.

Lansing, Michigan

August 1, 1962

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.

This is a revision of Sec. 17, Article VII, of the present constitution. It includes among courts of record the new court of appeals and any lower courts so designated by the legislature. The section also provides that all judges of such courts must be lawyers. In the case of probate judges, an exception is made in Sec. 7 of the Schedule and Temporary Provisions of this document which permits non-lawyers holding such offices to be candidates for re-election.

#### Judge; removal of domicile.

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.

This is a revision of Sec. 19, Article VII, of the present constitution clarifying the previous language. The word "territory" has been substituted for "jurisdiction", inasmuch as the section refers to physical moving.

#### Judges; ineligibility for other 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.

This is a revision of the concluding sentence of Sec. 9, Article VII, of the present constitution and extends its provisions to all judges of courts of record. Such judges are prohibited from holding other than a judicial office for their term and an additional year. This continues the principle of divorcing the judiciary from the political arena.

#### Candidacy of incumbents; affidavit.

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.

This is a new section permitting elected judges of the court of appeals, circuit and probate courts to become candidates in the primary election for the offices of which they are incumbents by filing an affidavit of candidacy. It eliminates the necessity for incumbent judges to file nominating petitions.

#### Vacancy; courts of record.

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.

This section is a revision of Sec. 20, Article VII, of the present constitution. It provides that vacancies in the office of an elected judge of any court of record shall be filled by a general or special election. This is a significant change and removes from the governor the power to appoint judges to fill vacancies.

The change is made in order to maintain consistency in the idea that this state should have an elected judiciary. The present system of appointment by the governor to fill vacancies, bestowing on the appointee the incumbency designation, has had an overwhelming tendency to insure the election of the appointee. This has created in effect an appointive judiciary.

The section also provides that the supreme court may fill judicial vacancies temporarily by utilizing the services of judges who have retired. These temporary appointees will not be eligible for election to fill the vacancy.

#### Judges; ballot designation.

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.

This is a revision of the last paragraph of Sec. 23, Article VII, of the present constitution. The word "elected" has been inserted in front of "incumbent". Hence it provides that only judges who have been elected are eligible for the incumbency designation.

#### Removal.

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.

No change from Sec. 6, Article IX, of the present constitution except for improvement in phraseology.

#### Certain offices abolished.

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.



This is a new section abolishing the offices of circuit court commissioner and justice of the peace five years from the date this constitution becomes effective, unless within this period they are abolished by the legislature. This will give the legislature time in which to re-evaluate the entire system of courts of limited jurisdiction and to develop a lower court structure better adapted to the needs of the people and the ends of justice.

The second paragraph of the section continues in existence the several statutory courts created under the present constitution. Included are the Recorder's court and Common Pleas court in Detroit, Superior court in Grand Rapids, municipal courts throughout the state and the Court of Claims. These courts are unchanged by this section, but the legislature has the power to abolish them or transfer their duties elsewhere.

**Prohibition; power of appointment.**

*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.*

This is a revision of the second sentence of Sec. 11, Article VII, of the present constitution and is made applicable to the supreme court and court of appeals as well as circuit courts.

**Administrative decisions; review.**

*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.*

This is a new section recognizing the increased significance assumed by administrative law in the legal system of the state in recent years. It provides that decisions, findings, rulings and orders of administrative officers or agencies which affect private rights be subject to judicial review.

Excepted in the section are findings of fact in workmen's compensation proceedings. These findings would be conclusive in the absence of fraud, unless otherwise provided by law. Also excepted are appeals of certain decisions of agencies dealing with administration of property tax laws.

**Conservators of the peace.**

*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.*

No change from Sec. 18, Article VII, of the present constitution except for new language to recognize "judges of the court of appeals" and "other judges as provided by law."