

Michigan Constitutional Convention of 1961

Committee Proposal 51

Const 1963, Art 9, § 7

Relevant Material From the Constitutional Convention Record

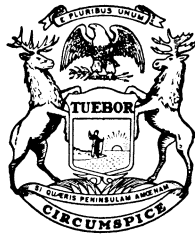
Cross-Reference and Indices	pp. 3437, 3446, 3471
First Reading	pp. 724, 853-863, 866-909, 2406
Second Reading	pp. 2641-2657
Draft Constitution (Art 9, § 7)	pp. 3047-3075 (p. 3068)
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Third Reading, Full Constitution	pp. 3300-3301
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Overview 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 (Continued)

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
Art.	Sec.	Art.	Sec.		Art.	Sec.	Art.	Sec.		Schedule		Schedule		
IX	7		none	51	IX	23	X	17,18	37c ¹	1		S	8	44d
IX	8	X	23	39a	IX	24		none	40	2		S	2,3,4	44b
IX	9	X	11	38						3		S	5	44c,71g
IX	10		none	39a	X	1	XVI	8	63	4		S	6	68b
IX	11	X	23	39b	X	2	XIII	1,2	67	5		VI	1	71a
IX	12	X	22	23a	X	3	XIV	1,2,3,4	12			V	2	80b
IX	13	VIII	10, 15a, 20,24	49	X	4	VI	20	74	6			none	91a
					X	5		none	129	7			none	96f
IX	14	X	10	23b	X	6	XVI	9	43	8		VII	23	96j
IX	15	X	10,20a, 23a,24, 25,26	23b						9		XI	2,6	47
					XI	1	XVI	2	25	10			none	98c
		S	4		XI	2	XVI	1	61	11*		XI	7,16	71b
IX	16	X	27,28	23d	XI	3	XVI	3	62	12			none	...
IX	17	X	16	37b	XI	4	X	19	55	13		X	10,20a, 23a,24, 25,26	6
IX	18	X	12	23c	XI	5	VI	22	22				4	
IX	19	X	13	37d	XI	6		none	76,81m			S		
IX	20	X	15	37a	XI	7	IX	1,2,3,4	42a,b,c,d	14			none	23b
IX	21	X	18	37c,78	XII	1	XVII	1	64	15		S	10	68a
IX	22	VI	20	74	XII	2	XVII	2,3	65	16		S	11	68c
					XII	3	XVII	4	66					

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Mar. 29, considered, amended, passed by committee of the whole	1973-1976
Mar. 29, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting	1987
(Note: The entire content stricken.)	
49. A proposal with reference to the borrowing of money by public corporations and bodies. Amends article VIII by adding a section.	
For text as offered and reasons	852
As referred to style and drafting	852
As reported by style and drafting	2659
As rereferred to style and drafting	2659
Jan. 31, reported by finance and taxation; referred to committee of the whole	723
Feb. 7, read first time; considered, passed by committee of the whole	852
Feb. 7, reported by committee of the whole without amendment; referred to style and drafting	863
Apr. 13, reported by style and drafting (Report 64); placed on order of second reading	2406
Apr. 19, read second time; passed; rereferred to style and drafting	2659
50. A proposal to require the legislature to provide sufficient taxes to meet the state's expenses covering the substance of section 2, article X of the 1908 constitution.	
For text as offered and reasons	853
As referred to style and drafting	853
As reported by style and drafting	2660
As rereferred to style and drafting	2660
Jan. 31, reported by finance and taxation; referred to committee of the whole	724
Feb. 7, read first time; considered, passed by committee of the whole	853
Feb. 7, reported by committee of the whole without amendment; referred to style and drafting	863
Mar. 5, reported by style and drafting (Report 29); placed on order of second reading	1430
Apr. 19, read second time; passed; rereferred to style and drafting	2660
51. A proposal setting up the uniform rule of taxation for providing for equalization a maximum limit for assessments, prohibiting a graduated income tax, and covering the subject matter of sections 3, 4, 7 and 8 of article X of the 1908 constitution.	
For text as offered and reasons	853
For minority reports and reasons	854
As referred to style and drafting	909
As reported by style and drafting	2641
As rereferred to style and drafting	2657
Jan. 31, reported by finance and taxation; referred to committee of the whole	724
Feb. 7, read first time; considered, amended by committee of the whole	853-863, 866-881
Feb. 8, considered, passed by committee of the whole	882-906
Feb. 8, reported by committee of the whole with 2 amendments; amendments concurred in; referred to style and drafting	906-909
Apr. 13, reported by style and drafting (Report 65); placed on order of second reading	2406
Apr. 19, read second time; amended, passed; rereferred to style and drafting	2641-2657
52. A proposal with reference to the taxation of certain utilities, covering the material in article X, section 5 of the 1908 constitution.	
For text as offered and reasons	910
As referred to style and drafting	920
As reported by style and drafting	2660
As rereferred to style and drafting	2690
Jan. 31, reported by finance and taxation; referred to committee of the whole	724
Feb. 8, read first time; considered, amended, passed by committee of the whole	910-911
Feb. 8, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting	920

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Apr. 13, reported by style and drafting (Report 66); placed on order of second reading	2406
Apr. 19, read second time; amended, not passed	2660-2666
Apr. 23, vote on passage reconsidered; passed as amended; rereferred to style and drafting	2686-2690
53. A proposal to require that every tax law shall distinctly describe the tax, covering article X, section 6 of the present constitution.	
For text as offered and reasons	911
As referred to style and drafting	911
As reported by style and drafting	2666
As rereferred to style and drafting	2666
Jan. 31, reported by finance and taxation; referred to committee of the whole	724
Feb. 8, read first time; considered, passed by committee of the whole	911-912
Feb. 8, reported by committee of the whole without amendment; referred to style and drafting	920
Mar. 12, reported by style and drafting (Report 33); placed on order of second reading	1568
Apr. 19, read second time; passed; rereferred to style and drafting	2666-2667
54. A proposal that the power of taxation shall never be surrendered, suspended, or contracted away, covering the material in article X, section 9 of the present constitution.	
For text as offered and reasons	912
As referred to style and drafting	912
As reported by style and drafting	2667
As rereferred to style and drafting	2667
Jan. 31, reported by finance and taxation; referred to committee of the whole	724
Feb. 8, read first time; considered, passed by committee of the whole	912
Feb. 8, reported by committee of the whole without amendment; referred to style and drafting	920
Mar. 12, reported by style and drafting (Report 34); placed on order of second reading	1568
Apr. 19, read second time; passed; rereferred to style and drafting	2667-2668
55. A proposal to include article X, section 19 of the 1908 constitution in the new constitution.	
For text as offered and reasons	912
As referred to style and drafting	912
As reported by style and drafting	2668
As rereferred to style and drafting	2668
Jan. 31, reported by finance and taxation; referred to committee of the whole	724
Feb. 8, read first time; considered, passed by committee of the whole	912
Feb. 8, reported by committee of the whole without amendment; referred to style and drafting	920
Apr. 13, reported by style and drafting (Report 67); placed on order of second reading	2406
Apr. 19, read second time; passed; rereferred to style and drafting	2668
56. A proposal to limit the ad valorem taxation of property covering the subject matter of section 21, article X of the 1908 constitution, commonly known as the 15 mill limitation.	
For text as offered and reasons	913
As referred to style and drafting	939
As reported by style and drafting	2627
As rereferred to style and drafting	2631
Jan. 31, reported by finance and taxation; referred to committee of the whole	724
Feb. 8, read first time; considered, substituted by committee of the whole	913-920
Feb. 9, substitute considered, amended, passed by committee of the whole	921-928
Feb. 9, reported by committee of the whole with 1 amendment; amendment concurred in; referred to style and drafting	938-939
Apr. 13, reported by style and drafting (Report 68); placed on order of second reading	2406
Apr. 19, read second time; substituted, passed; rereferred to style and drafting	2627-2631

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Article VIII, Section 7: Cont'd.	
Aug. 1, considered; adopted	3291-3301
For text as adopted	3343
For text, and comments in address to the people	3397
Section 8. Services for handicapped persons. (Committee Proposal 13)	
May 7, reported; placed on order of third reading ..	3045
May 8, read third time, passed	3146-3149
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	3343
For text, and comments in address to the people	3397
Section 9. Public libraries, fines. (Committee Proposal 31)	
May 7, reported; placed on order of third reading ..	3045
May 8, read third time, passed	3146-3149
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	3343
For text, and comments in address to the people	3397
ARTICLE IX. Finance and taxation. (Committee Proposals 23a, b, c, d, 37a, b, c, c', d, 38, 39a, b, 40, 49, 50, 51, 52, 54, 56, 74 and 78)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time; sections 4, 6, 11, 18 and 19 amended; passed	3159-3170, 3176-3186
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	3343-3346
For text, and comments in address to the people	3398-3402
Section 1. Taxes for state expenses. (Committee Proposal 50)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time; passed	3159-3170, 3176-3186
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	3343
For text, and comments in address to the people	3398
Section 2. Power of taxation, relinquishment. (Committee Proposal 54)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, passed	3159-3170, 3176-3186
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	3343
For text, and comments in address to the people	3398
Section 3. Property taxation; uniformity, assessments, classes. (Committee Proposal 51)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, passed	3159-3170, 3176-3186
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	3343
For text, and comments in address to the people	3398
Section 4. Exemption of religious or educational non-profit organizations. (Committee Proposal 51)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, amended, passed	3159-3170, 3176-3186
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	3343
For text, and comments in address to the people	3398

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Section 5. Assessment of property of public service businesses. (Committee Proposal 52)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, passed	3159-3170, 3176-3186
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	3343
For text, and comments in address to the people ..	3398
Section 6. 15 mill limitation. Nonapplication of limitation. School districts in 2 or more counties. (Committee Proposal 56)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, amended, passed	3159-3170, 3176-3186
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	3344
For text, and comments in address to the people ..	3399
Section 7. Income tax. (Committee Proposal 51)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, passed	3159-3170, 3176-3186
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	3344
For text, and comments in address to the people ..	3399
Section 8. Sales tax. (Committee Proposal 39a)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, passed	3159-3170, 3176-3186
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	3344
For text, and comments in address to the people ..	3399
Section 9. Motor vehicle fuel and other taxes to be used for highway purposes. (Committee Proposal 38)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, passed	3159-3170, 3176-3186
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	3344
For text, and comments in address to the people ..	3399
Section 10. Sales tax, distribution to local governments. (Committee Proposal 39a)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, passed	3159-3170, 3176-3186
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	3344
For text, and comments in address to the people ..	3400
Section 11. State school aid fund, source and distribution. (Committee Proposal 39b)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, amended, passed	3159-3170, 3176-3186
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	3344
For text, and comments in address to the people ..	3400
Section 12. Evidence of state indebtedness. (Committee Proposal 23a)	
May 7, reported; placed on order of third reading ..	3045
May 9, read third time, passed	3159-3170, 3176-3186
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	3344
For text, and comments in address to the people ..	3400

Committee Proposal 50, A proposal to require the legislature to provide sufficient taxes to meet the state's expenses covering the substance of section 2, article X of the 1908 constitution; with the recommendation that it pass.

D. Hale Brake, chairman.

For Committee Proposal 50 and the reasons submitted in support thereof, see below under date of February 7.

PRESIDENT NISBET: Referred to the committee of the whole and placed on the general orders calendar.

SECRETARY CHASE: Mr. Brake, for the committee on finance and taxation, also introduces

Committee Proposal 51, A proposal setting up the uniform rule of taxation for providing for equalization a maximum limit for assessments, prohibiting a graduated income tax, and covering the subject matter of sections 3, 4, 7 and 8 of article X of the 1908 constitution;

with the recommendation that it pass.

D. Hale Brake, chairman.

For Committee Proposal 51 and the reasons submitted in support thereof, see below under date of February 7.

PRESIDENT NISBET: Referred to the committee of the whole and placed on the general orders calendar.

SECRETARY CHASE: Mr. Brake, for the committee on finance and taxation, also introduces

Committee Proposal 52, A proposal with reference to the taxation of certain utilities, covering the material in article X, section 5 of the 1908 constitution;

with the recommendation that it pass.

D. Hale Brake, chairman.

For Committee Proposal 52 and the reasons submitted in support thereof, see below under date of February 8.

PRESIDENT NISBET: Referred to the committee of the whole and placed on the general orders calendar.

SECRETARY CHASE: Mr. Brake, for the committee on finance and taxation, also introduces

Committee Proposal 53, A proposal to require that every tax law shall distinctly describe the tax, covering article X, section 6 of the present constitution;

with the recommendation that it pass.

D. Hale Brake, chairman.

For Committee Proposal 53 and the reasons submitted in support thereof, see below under date of February 8.

PRESIDENT NISBET: Referred to the committee of the whole and placed on the general orders calendar.

SECRETARY CHASE: Mr. Brake, for the committee on finance and taxation, also introduces

Committee Proposal 54, A proposal that the power of taxation shall never be surrendered, suspended, or contracted away, covering the material in article X, section 9 of the present constitution;

with the recommendation that it pass.

D. Hale Brake, chairman.

For Committee Proposal 54 and the reasons submitted in support thereof, see below under date of February 8.

PRESIDENT NISBET: Referred to the committee of the whole and placed on the general orders calendar.

SECRETARY CHASE: Mr. Brake, for the committee on finance and taxation, also introduces

Committee Proposal 55, A proposal to include article X, section 19 of the 1908 constitution in the new constitution;

with the recommendation that it pass.

D. Hale Brake, chairman.

For Committee Proposal 55 and the reasons submitted in support thereof, see below under date of February 8.

PRESIDENT NISBET: Referred to the committee of the whole and placed on the general orders calendar.

SECRETARY CHASE: Mr. Brake, for the committee on finance and taxation, also introduces

Committee Proposal 56, A proposal to limit the ad valorem taxation of property covering the subject matter of section 21, article X of the 1908 constitution, commonly known as the 15 mill limitation;

with the recommendation that it pass.

D. Hale Brake, chairman.

For Committee Proposal 56 and the reasons submitted in support thereof, see below under date of February 8.

PRESIDENT NISBET: Referred to the committee of the whole and placed on the general orders calendar.

SECRETARY CHASE: Mr. Brake, for the committee on finance and taxation, also introduces

Committee Proposal 57, A proposal to require a public hearing on all budgets of local units of government before the budgets are approved. Amends article X by adding a section;

with the recommendation that it pass.

D. Hale Brake, chairman.

For Committee Proposal 57 and the reasons submitted in support thereof, see below under date of February 9.

PRESIDENT NISBET: Referred to the committee of the whole and placed on the general orders calendar.

SECRETARY CHASE: Mr. Martin, for the committee on executive branch, introduces

Exclusion Report 2027, A report recommending the exclusion of article VI, sections 14 and 15. Substitute for Exclusion Reports 2001 and 2002.

John B. Martin, chairman.

For Exclusion Report 2027 and the reasons submitted in support thereof, see below under date of March 19.

PRESIDENT NISBET: Referred to the committee of the whole and placed on the general orders calendar.

SECRETARY CHASE: Mr. Brake, for the committee on finance and taxation, introduces

Exclusion Report 2028, A report recommending the exclusion of sections 3, 4, 5, 7 and 8 of article X.

D. Hale Brake, chairman.

For Exclusion Report 2028 and the reasons submitted in support thereof, see below under date of February 9.

PRESIDENT NISBET: Referred to the committee of the whole and placed on the general orders calendar.

SECRETARY CHASE: Mr. Pollock, for the committee on declaration of rights, suffrage and elections, introduces

Committee Proposal 58, A proposal pertaining to the elective franchise. A substitute for article III amending sections 4, 8, 9 and substituting new language for the other sections thereof;

with the recommendation that it pass.

James K. Pollock, chairman.

For Committee Proposal 58 and the reasons submitted in support thereof, see below under date of April 6.

PRESIDENT NISBET: Referred to the committee of the whole and placed on the general orders calendar.

SECRETARY CHASE: The committee on legislative powers, by Mr. Hoxie, chairman, reports back to the convention **Delegate Proposal 1340**, A proposal to limit the power of sale and disposition of certain public property and to require state officers under certain circumstances to resist condemnation by the United States government. Amends article V by adding a new section thereto; with the recommendation that the proposal be referred to the committee on emerging problems.

T. Jefferson Hoxie, chairman.

taxation, submits the following reasons in support of Committee Proposal 49:

One section that is being eliminated from article VIII of the 1908 constitution is 15a, which deals with drainage district bonds. The language of the proposal is broad so that it will serve as a catchall for anything omitted of a more specific nature including section 15a.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from Stanton, Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, there has got to be somebody around here who doesn't pass. (laughter) For an explanation of this section, I yield to Delegate Don Seyferth.

CHAIRMAN BENTLEY: The gentleman from Stanton yields to the gentleman from Muskegon, Mr. Seyferth.

MR. SEYFERTH: Mr. Chairman, delegates, Committee Proposal 49 just read by the secretary replaces in article VIII, sections 10, 15a and 24. This proposal had the concurrent jurisdiction of local government, and we have mutual acceptance from both committees. Section 10 of article VIII has to do with the $\frac{1}{10}$ of a mill on assessed valuation for borrowing purposes. Section 15a of the same article has to do with drainage districts established under provisions of the law. And section 24 has to do with city and village bonded indebtedness. We move that it be accepted.

CHAIRMAN BENTLEY: Is there discussion? Are there any amendments to the committee proposal? If not, it will pass.

Committee Proposal 49 is passed and the secretary will read.

SECRETARY CHASE: Item 24 on the calendar, from the committee on finance and taxation, by Mr. Brake, chairman, **Committee Proposal 50**, A proposal to require the legislature to provide sufficient taxes to meet the state's expenses covering the substance of section 2, article X of the 1908 constitution.

Following is Committee Proposal 50 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 legislature shall provide by law for an annual tax sufficient with other resources to pay the estimated expenses of the state government, the interest on any state debt and such deficiency as may occur in the resources.] **THE LEGISLATURE SHALL PROVIDE BY LAW TAXES SUFFICIENT WITH OTHER RESOURCES TO PAY THE EXPENSES OF STATE GOVERNMENT.**

Mr. Brake, chairman of the committee on finance and taxation, submits the following reasons in support of Committee Proposal 50:

This section is a directive to the legislature to use its taxing power to assure the state sufficient revenues to pay its bills. The proposed language merely restates the substance of section 2 of the 1908 constitution in simpler language. The duty expressed in this section is undoubtedly inherent in the legislature without a constitutional grant. Most state constitutions, however, contain a similar provision. The principle is so fundamental to the operation of state government that the committee believes such a directive should be continued in the constitution.

CHAIRMAN BENTLEY: The gentleman from Stanton, Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, for this proposal I yield to our vice chairman, Dick Austin.

CHAIRMAN BENTLEY: The gentleman from Detroit, Mr. Austin, is recognized.

MR. AUSTIN: Mr. Chairman, members of the committee, this is perhaps the most important provision of article X. I wish there were some way that we could make it stronger, because it is in this area that our legislature has been somewhat derelict. This section is a directive to the legislature to use its taxing power to assure the state sufficient revenues to

pay its bills. The proposed language merely restates the substance of section 2 of the 1908 constitution in simpler language.

The duty expressed in this section is undoubtedly inherent in the legislature without a constitutional grant. Most state constitutions, however, contain a similar provision. The principle is so fundamental to the operation of state government that the committee believes that such a directive should be continued in the constitution, and we move that it do pass.

CHAIRMAN BENTLEY: Are there any amendments to the body of the proposal? If not, it will pass.

Committee Proposal 50 is passed and the secretary will read.

The gentleman from Pontiac, Mr. King.

MR. KING: Mr. Chairman, I don't have an amendment. I would like to ask a question, though, if I could.

CHAIRMAN BENTLEY: The proposal has already been disposed of, Mr. King, but you are recognized for the purpose of a question.

MR. KING: Thank you. Mr. Austin, do you feel that it is necessary to put in any proviso here with regard to annually or each year? I notice that the old constitution used that word. You indicated you wish there were a way to make it stronger. Would that add anything, or do you think not?

MR. AUSTIN: I don't think it would, but I should explain that the annual tax referred to in the 1908 constitution had reference to the property tax which was levied at that time by the state. As a matter of fact, the principal state revenue at that time was an annual property tax, and I think this is what is referred to in the old language, and we do not refer to the annual tax now. We simply say that the legislature should provide sufficient taxes, along with other resources, to pay the expenses of state government.

MR. KING: But you think it is implicit in the wording that these taxes shall be provided for each and every year for the expenses of that year; is that right?

MR. AUSTIN: Such is the opinion of the committee.

MR. KING: Thank you.

CHAIRMAN BENTLEY: The secretary will read the next item on general orders.

SECRETARY CHASE: Item 25, from the committee on finance and taxation, by Mr. Brake, chairman, **Committee Proposal 51**, A proposal setting up the uniform rule of taxation for providing for equalization a maximum limit for assessments, prohibiting a graduated income tax, and covering the subject matter of sections 3, 4, 7 and 8 of article X of the 1908 constitution.

Following is Committee Proposal 51 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 LEGISLATURE SHALL PROVIDE BY LAW A UNIFORM RULE GOVERNING THE GENERAL AD VALOREM TAXATION OF REAL PROPERTY AND TANGIBLE PERSONAL PROPERTY. THE LEGISLATURE SHALL PROVIDE BY LAW FOR THE DETERMINATION OF TRUE CASH VALUE OF SUCH PROPERTY AND SHALL SPECIFY THE PROPORTION OF TRUE CASH VALUE AT WHICH SUCH PROPERTY SHALL BE UNIFORMLY ASSESSED, WHICH SHALL NOT, AFTER JANUARY 1, 1966, EXCEED 50 PER CENT, AND SHALL PROVIDE BY LAW FOR A SYSTEM OF EQUALIZATION OF ASSESSMENTS. THE LEGISLATURE MAY PROVIDE BY LAW FOR EXEMPTION OF SUCH PROPERTY FROM TAXATION, OR FOR ALTERNATIVE MEANS OF TAXATION OF SUCH PROPERTY IN LIEU OF GENERAL AD VALOREM TAXATION, UNIFORM UPON THE CLASS OR CLASSES OF PROPERTY TO WHICH SUCH ALTERNATIVE MEANS ARE APPLIED.**

EVERY OTHER TAX SHALL BE UNIFORM UPON THE CLASS ON WHICH IT OPERATES. NO INCOME TAX GRADUATED AS TO RATE OR BASE SHALL BE

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

IMPOSED BY THE STATE OR ANY OF ITS SUBDIVISIONS.

Mr. Brake, chairman of the committee on finance and taxation, submits the following reasons in support of Committee Proposal 51:

The first sentence of this section preserves the present uniformity clause of section 3 of article X, except as it presently applies to intangible personal property. Ad valorem taxation of the latter has proved unworkable, and it seems desirable to recognize this in the new constitution. Uniformity of assessment is the cornerstone of any system of general property taxation. There appears to be general agreement that while the present constitution requires uniformity, the requirement is frequently honored in the breach. The fact that uniformity has not been achieved in the past does not mean it is impossible to attain, but simply suggests the necessity for reaffirmation of the requirement and the discovery of new means to achieve it.

The first part of the second sentence of this section represents a major change, eliminating the present constitutional requirement of assessment at cash value found in section 7 of article X. The present cash value standard is almost universally ignored, but because of it a taxpayer whose property is assessed, for example, at 70 per cent of cash value has no judicial relief, in the absence of fraud, even though his neighbor's property is assessed at 30 per cent of cash value. At present, the court can simply state that since the former taxpayer is not assessed in excess of 100 per cent, the constitution affords no basis for relief. This unavailability of judicial relief has made the cash value standard a positive impediment to the achievement of uniform assessment.

To repeat, the important constitutional objective is uniformity of assessment, regardless of the level or standard at which property is commonly assessed. Permitting the legislature to fix the standard offers the possibility of moving to a more realistic standard such as, for example, the 50 per cent of cash value currently used by the state tax commission. On this basis actual uniformity could be achieved and a taxpayer aggrieved by an assessment over the level prescribed by law could obtain relief. A majority of the committee believes that the standard set by the legislature should not exceed 50 per cent. Recognizing that some jurisdictions currently assess some property in excess of 50 per cent, the committee has postponed the effective date of this limitation until 1966.

Another advantage of a standard of value fixed by law is the relative freedom with which the legislature could change the standard to reflect changes in the general price structure. Current inequities have resulted, in many cases, from the inability of assessors, with inadequate staffs, to keep up with changes in the dollar value of real property resulting from inflation, whereas personal property assessments have tended to follow inflationary trends far more rapidly.

The provision with respect to equalization is less detailed than that found in section 8 of the present article X, but nevertheless clearly imposes the requirement that assessments be equalized as between various assessing units.

The provision for exemption of property from taxation is clearly necessary and desirable.

The provision for alternative means of taxation of property, in lieu of general ad valorem taxation, is also necessary if such taxes as the automobile weight tax, the tax on boats, the severance tax on oil and gas, and state assessment and taxation of certain utilities' properties are to be maintained. This provision gives the legislature reasonable freedom to remove certain kinds of property from general property taxation and to provide alternative tax treatment of such property.

The last paragraph of the section replaces section 4 of the present article X. The uninformative designation of "specific" taxes has been dropped, and all taxes other than

the general ad valorem property tax or alternative taxes based on property, are simply described as "other taxes".

The provision makes it clear that neither the state nor any local unit of government may impose a graduated income tax. The words "or base" are necessary to prevent "piggyback" taxation based on the federal tax liability. Without such language, a tax nominally imposed at a flat rate might actually adopt all of the graduation of the federal tax. A flat rate income tax is clearly permitted, and could, in the opinion of the committee, be imposed on a "piggyback" basis on income computed for federal tax purposes. The legislature could prescribe reasonable exemptions for a flat rate income tax.

The imposition of this limitation on legislative power seems desirable in order to avoid confiscatory taxation to avoid the use of a revenue measure as a device for social reform, and to prevent the entry by the state into a field largely preempted by the federal government. A further advantage of the limitation is that with it, a legislator who votes for an income tax will do so with the knowledge that it will fall proportionally as heavily on himself as upon others—a safeguard which a majority of the committee deems important.

Following is minority report A to Committee Proposal 51 as offered and the reasons submitted in support thereof:

Messrs. Austin, Binkowski, Pellow, Stopczynski, Walker, Young and Ostrow, a minority of the committee on finance and taxation, submit the following minority report to Committee Proposal 51:

A minority of the committee recommends that the following be excluded from the constitution:

Delete the last paragraph of the proposed new section.

Messrs. Austin, Binkowski, Pellow, Stopczynski, Walker, Young and Ostrow, a minority of the committee on finance and taxation, submit the following reasons in support of the foregoing minority report, which accompanied Committee Proposal 51:

The last paragraph of the proposal is being included in the constitution, as stated in the majority report,

to avoid confiscatory taxation, to avoid the use of a revenue measure as a device for social reform, and to prevent the entry by the state into a field largely preempted by the federal government.

The majority suggests as a further advantage:

a legislator who votes for an income tax will do so with the knowledge that it will fall proportionately as heavily on himself as upon others—a safeguard which the committee deems important.

The proponents of the minority report contend that the last paragraph should be omitted from the constitution and that the reasons stated by the majority do not justify its inclusion.

The principal objections raised against this paragraph, which includes the so called uniformity rule on all taxes other than property taxes and the prohibition against imposition of a graduated income tax, are stated below.

The proponents of this minority report do not, however, advocate that an income tax should be levied. This is a matter to be decided by the legislature.

The committee proposal raises some objections to the graduated income tax. Although the relative merits of a graduated versus flat rate income tax should not be presently at issue, the proponents of the minority position feel constrained to include some rebuttal.

The proponents for exclusion of the last paragraph of Committee Proposal 51 argue:

1. It freezes into the constitution unnecessary and undesirable restriction on the legislative power to levy taxes in the future. No authority has been cited for the advisability of inserting this unique provision into a state constitution. It does not make allowance for drastically changed circumstances beyond our present anticipation.

2. The prohibition of a graduated income tax, statutory in nature, does not have the faithful sanctity of the other restrictive measures written into the constitution, such as the sales tax rate limitation, achieved through prior approval of the people at the polls.

3. It freezes present and potential inequities in the Michigan tax structure by prohibiting the legislature from correcting them, should it desire to do so.

4. The majority committee report implies that graduation of tax bases is preempted by the federal government. There is no legal authority for this presumption.

If there is reason for concern over preemption by the federal government, such concern more properly is reflected in the comment of President Eisenhower—that many fields have been preempted by federal government because the states have failed to act in these areas. This is a far more vital area of concern than the technicality of whether graduation can be used at both federal and state levels.

5. Progressive taxation, accomplished through graduated rate structure, is not a device for social reform: on the contrary, it is a very equitable device for raising the maximum amount of revenues, without unduly burdening any individual taxpayer, on the basis of ability to pay.

Its effect does not need to be "soak the rich" or "pamper the poor". Experience actually proves these descriptions more propaganda than reality. However, there is obviously a basic difference between the majority and minority emphasis on the equity of the Michigan tax system, particularly in terms of the impact on low income and middle income families, pensioners and those on fixed incomes.

6. Ignored in the proposal is the experience of the overwhelming majority of the states which have income taxes, all but two (33 of the 35) having adopted graduated rate structures. Michigan would be placed in a unique category and at a potential disadvantage in relation to other states in its ability to raise revenue from income taxation.

The chart which follows reflects the experience in other states as well as the Michigan potential. It shows clearly that a low flat rate tax results in a continued higher contribution to the federal internal revenue. This, in turn, results in disproportionate support of federal projects in other states by Michigan taxpayers.

Comparative income tax on last \$10,000 of a taxable income of \$200,000			
(assuming 2 different rates and state tax deductible in arriving at federal liability)			
	State income tax		
	Assuming	Assuming	
	1 per cent	graduated	
	flat rate	of 10 per cent	
Federal income tax on the last \$10,000 of income:			
Rate of tax in subject bracket	89 per cent		
Amount of federal income tax if there is no state income tax	\$8,900		
State income tax:			
Amount of state income tax	\$ 100	\$ 1,000	
Amount borne by federal government	\$ 89	\$ 890	
Amount borne by taxpayer	11	110	
Division of the last \$10,000*			
Amount of tax going to federal government	\$ 8,811	\$ 8,010	
Amount of tax going to state government	100	1,000	

Amount of last \$10,000 retained by taxpayer	1,089	990
Together	<u>\$10,000</u>	<u>\$10,000</u>

*By graduating the rate structure up to 10 per cent, assuming a beginning rate of 1 per cent, the revenue of the state is increased by \$900 while the amount retained by the taxpayer is reduced by only \$99. The contribution to the federal government is reduced by \$801.

7. The experience with the federal income tax has been raised as one of the objections to a graduated rate structure. It is argued, to the contrary, that the existence of the steeply graduated federal rate structure could be one of the reasons for adopting a graduated structure at the state level. Because of the deductibility of state income tax in arriving at federal liability, the impact of the state tax at the higher income levels would be softened.

Consider, for example, the comparative impacts of the 1 per cent and 10 per cent state income tax rates, described in the chart.

Following is minority report B to Committee Proposal 51 as offered and the reasons submitted in support thereof:

Messrs. Austin, Binkowski, Pellow, Stopczynski, Walker and Young, a minority of the committee on finance and taxation, submit the following minority report to Committee Proposal 51:

A minority of the committee recommends that the following be excluded from the constitution:

On page 1, line 13, after the word "assessed" delete the comma and the following words, "which shall not, after January 1, 1966, exceed 50 per cent."

Messrs. Austin, Binkowski, Pellow, Stopczynski, Walker and Young, a minority of the committee on finance and taxation, submit the following reasons in support of the foregoing minority report, which accompanied Committee Proposal 51:

The proponents of the minority report agree with the majority on the merits of providing that the standard of value for assessment of property be fixed by law, giving the legislature freedom to reflect changes in the general price index and to shift with inflationary trends. The minority do not agree, however, that there should be a constitutional limitation of 50 per cent of cash value.

The principal objections raised against the inclusion of the 50 per cent of cash value standard are as follows:

1. A 50 per cent of cash value standard proposed by the majority of the committee coupled with the tax rate limitations proposed in another part of the report, in effect imposes upon many communities an effective tax rate limit not of 15 mill but of 7½ mill, or half of whatever rate may apply to each unit of government under that proposal.

2. Since 1933 when the state itself abandoned the base of the property tax for its own purposes, the property tax has been mentioned as being the primary source of revenue for units of local government—to be levied and administered in accordance with the needs of each unit of local government. The local property tax has thus been administered within the broad limits of general law. The 50 per cent limitation proposed by the majority of the committee now proposes to leave to local units a tax source which they no longer will have any discretion over in its administration and effect. It is indeed a fact that the "full cash value" standard has given the local communities the discretion to fix assessments and effective rates in terms of their needs. The 50 per cent standard limits this discretion to such a degree as to nullify it.

3. While it is a fact that the state tax commission has found it desirable to adopt a 50 per cent level in the equalization process as between units of government, that level has been used because it represents a near average statewide level at which equalization as between units is reasonably equitable. It follows that if the 50 per cent

standard is adopted by constitutional provision, the state board of equalization in arriving at a statewide level for equalization conceivably will have to go below the 50 per cent and in a few years will arrive at an equalization standard of 30 per cent or even 25 per cent. The effect of this is too obvious to require further elaboration.

4. If indeed, the reason for going to a constitutional 50 per cent level is to relieve any particular segment of the business community from excessive burdens of property taxation, then such relief should be granted to that segment of the community by relief from certain taxes rather than by tampering with the machinery designed for the levy and administration of a local tax. And the decision to grant tax relief is a question which ought to be mediated and debated on the floor of the legislature. Such debate ought not to be restricted and tampered by restrictions imposed by the constitution which, though they do not actually forbid the legislature from dealing with the problem, effectively impose upon it the burden of dealing with the problem in a particular way.

5. Compliance with the new provision will have a devastating immediate effect on the fiscal affairs of some communities. Consider for example the remarks of Dr. Harvey E. Brazer in Michigan Pamphlet 30, Taxation in Michigan: An Appraisal, in which he says, page 20:

The problem is particularly acute in Wayne county and the city of Detroit, where personal property is currently assessed at well above the 50 per cent of current market value standard applicable to realty. Under pressures imposed by the uniformity clause of the Michigan constitution and taxpayers' complaints, present practices in Detroit are being modified. However, on the basis of the 1959 tax levy, it is estimated that if all personal property were assessed at 50 per cent of its net book value the revenue loss to Detroit and its school district would amount to more than \$30 million and the loss to the county, school districts, townships and municipalities in the rest of Wayne county would exceed \$15 million. Obviously, unless some means of replacing the lost revenue were forthcoming, a reduction in tax receipts of these dimensions would produce a fiscal catastrophe for the governmental units involved.

6. In all related testimony before the committee on finance and taxation, it was disclosed that the mining industry is the only industry in which property is assessed at 100 per cent of cash value. It is obvious that the recommended provision, if adopted, would drastically reduce the revenues of communities depending on mining taxation.

7. Adoption of a constitutional 50 per cent cash value standard undoubtedly will have the effect of bringing about a material shift of property tax burden from commercial property to home owners. Unless other sources of revenue are availed, the forcing of assessments on certain personal property down to the 50 per cent level will force assessments on already overburdened home owners upward to the 50 per cent level.

8. The inclusion of an arbitrary 50 per cent limitation, statutory in nature, does not have the dignity of a mandate of the people, as does the sales tax rate limitation, expressed in a referendum.

Following is minority report C to Committee Proposal 51 as offered, and the reasons submitted in support thereof:

Messrs. Austin, Binkowski, Ostrow, Pellow, Stopczynski, Walker and Young, a minority of the committee on finance and taxation, submit the following minority report to Committee Proposal 51:

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

Delete the first sentence of the proposed new section and substitute therefore the following:

THE LEGISLATURE MAY BY LAW AUTHORIZE OR IMPOSE AD VALOREM AND OTHER TAXES WHICH SHALL BE UNIFORM WITHIN THE CLASSES OF PERSONS OR PROPERTY TO WHICH THEY ARE APPLIED.

Messrs. Austin, Binkowski, Ostrow, Pellow, Stopczynski, Walker and Young, a minority of the committee on finance and taxation, submit the following reasons in support of the foregoing minority report, which accompanied Committee Proposal 51:

The proponents of the minority report believe that the rigid uniformity clause prevents justice in taxation because the legislature cannot consider all of the problems within the various classes of real and personal property.

In other words, our present system demands that an elephant and a mouse be taxed uniformly.

Testimony taken before the committee on finance and taxation brought forth many problems which cannot be solved under the proposed uniformity clause. Some of these assets which cause assessment problems are as follows:

- (a) Farm equipment which is only used a few months during the year, but taxed as if it is used every day of the year;
- (b) Farm land which is located near a growing metropolitan area;
- (c) The inventory of the grocer, druggist and other small businessmen;
- (d) Dies, fixtures and other business equipment;
- (e) The differences between residential, commercial and industrial property; and
- (f) Stocks and bonds and other intangible property.

The many studies furnished the delegates indicate that the criticism of the present and proposed uniformity clauses fall into the following categories:

I. "The major controversy on uniformity is that it restricts the legislature's flexibility on tax choices and prevents the use of classified property tax." (*Some Suggested Revisions of the Constitution of the State of Michigan*, Donato J. Pugliese, University of Detroit, October 1961, p. II-41.)

II. "... It is contended that the legal uncertainties encountered by the legislature in using its specific tax powers have made that body hesitate to attempt any bold steps in improving the tax system." (*The Voter and the Michigan Constitution*, bureau of government, institute of public administration, University of Michigan, No. 29, 1960, pp. 89-90.)

III. "Constitutional requirements concerning uniform taxation are sometimes looked upon as unnecessary and the model state constitution contains no such provision." (*Comparative Analysis of the Michigan Constitution*, citizen's research council of Michigan, vol. II, p. X-13.)

In the first Michigan constitution, dated 1835, there were no provisions dealing with problems of uniformity in taxation.

The uniformity clause first appeared in the Constitution of 1850, but the constitutional convention debates throw little light on the reasons for inserting it. The committee on finance and taxation was directed to investigate the expediency of making all taxes 'equal,' and remarks throughout the debate indicate a feeling that the burden of taxation was not being imposed equally. The uniformity clause was present in the article on finance and taxation when it came from the committee, but it was subjected to no debate in the convention itself. Nor was there any debate on it at the conventions of 1867 and 1908.

According to a recent writer in 88 U. of Pa. L. R. 728, 1940, the adoption of uniformity clauses in so many of our state constitutions during the latter half of the nineteenth century was due to economic causes. As the wealth of the country was gradually shifted from

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

agriculture to industry, it came to consist more and more of intangibles. The general property tax became insufficient for the needs of government. Intangible wealth was drawn under the taxing power, and state legislatures showed a tendency to classify property for taxation purposes. To some, especially the owners of real property, this seemed unfair, and it was feared that unlimited power of classification would permit excessive discrimination. Hence, the uniformity clauses were written into the state constitution.

(*Report of the Michigan Constitutional Revision Study Commission*, 1942, Pt. II, pp. 2-3.)

Presently, all taxes levied on real property and personal property must be uniform, or the same. There can be no distinction between the two. The legislature cannot classify homes differently from industrial property. Distinctions between personal property and inventories cannot be considered.

Why should the legislature be prevented from introducing equity into our tax structure?

First, there should be unanimous agreement that the so called uniformity clause and the supplementary provisions dealing with particular rules of uniformity have produced, more than anything else, *confusion and litigation* (emphasis added). This has been accomplished without achieving to any substantial degree the ideal of "absolute uniformity" in the distribution of the property tax burden when such was the ideal. . . . Second, it should also be clear that no policy, whether it favors a strict or liberal limitation, has profited by the overlapping and redundant uniformity structures which were so often found. Too often there has been a tendency to clutter up the constitution with a prolix and complicated uniformity structure which still left many of the really hard problems unsolved.

(*Constitutional Uniformity and Equality in State Taxation*, Wade J. Newhouse, Michigan legal publications, 1959, pp. 767-768.)

A cursory reference to the preparatory studies for this constitutional convention indicate beyond any question that the present article X, section 3, should be broadened to provide flexibility and untie the hands of our legislature.

Both the citizens advisory committee report on taxation and finance and the league of women voters recommend deletion of section 3.

In the study prepared by Mr. Raleigh Barlowe in the series of Michigan constitutional convention studies, it was recommended that section 3 be revised and broadened in its scope. At page 23, it was stated, "Strong questions may be raised concerning the advisability of continuing the uniformity rule of section 3 in the new constitution."

Finally, the citizens research council concludes its comments with the following quotation:

The Michigan constitutional revision commission of 1942, subcommittee on taxation and finance; June 27, 1942; recommended that . . . the uniformity clause in the Michigan constitution as now worded is an unnecessary obstacle to effective tax legislation, and that there would be great advantage to the state if sections 3 and 4 could be redrafted to permit the legislature to graduate and classify all types of taxes, both ad valorem and specific, providing, however, for uniformity within classes.

(*Comparative Analysis of the Michigan Constitution*, citizens research council of Michigan, Vol. II, p. X-14.)

Therefore, the proponents of the minority report believe its recommended language will provide the necessary flexibility to solve Michigan's fiscal problems.

CHAIRMAN BENTLEY: The gentleman from Stanton, Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, we had no expectation that things would go so smoothly for long. For a discussion of this proposal, I call on Dick Van Dusen, a member of the committee.

CHAIRMAN BENTLEY: The gentleman from Birmingham, Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman and members of the committee, I should first call to your attention a misprint in the green sheet committee proposal which is before you and which may, if you simply cross out the duplicated language, make your understanding of the matter somewhat easier. Line 17 on page 1 should simply be stricken in its entirety including the carryover portion of the word "taxation" at the beginning of line 18, so that that sentence will then read:

The legislature may provide by law for exemption of such property from taxation, or for alternative means of taxation of such property in lieu of general ad valorem taxation, and so forth.

[Correction made.]

Now, I should begin by saying that this section takes the place of all of sections 3 and 4 of the present article X. It makes some provisions with respect to matter covered in section 5 though a separate section is still retained for that purpose. It also covers all of what is presently contained in sections 7 and 8 of the present article X, and it covers rather broadly the field of property taxation and the field of nonproperty taxation.

Now, I think that it is easier to take this in pieces and to discuss first the application of the committee proposal to the field of property taxation. The basic provision of the present constitution is that the legislature shall provide by law a uniform rule of taxation. The present constitution further provides that all property shall be assessed at its true cash value, and provides that the legislature shall provide a system of equalization of assessments as between assessing authorities.

Now, in large measure the requirement of uniformity imposed by the present constitution is retained in the committee proposal. The committee heard from witnesses over and over and over again that uniformity of assessment as a basis for property taxation was a desirable objective; that it was an objective not achieved under the present constitutional language in any measure in our state; and that if we could find the means of achieving uniformity of assessment, we would be accomplishing some major feat. Our proposal is designed to move in that direction, and we hope that it will provide the means by which the legislature and the municipalities and school districts imposing property taxes in this state can accomplish uniformity of assessment which is, after all, the cornerstone of any system of general property taxation.

The proposal states at the beginning that "The legislature shall provide by law a uniform rule governing the general ad valorem taxation of real property and tangible personal property." This is a basic statement that all property, real and personal, subjected to general ad valorem taxation, must be assessed at the same standard of value. It wouldn't make any difference whether this were 25 per cent of true cash value or true cash value or 75 per cent of true cash value; the uniformity rule would require that all of it be assessed at the same level, and this, after all, is something which taxpayers should reasonably be able to expect if the burden of taxation is going to be spread equally.

We found that one of the major problems of the present constitutional provision is that it requires the assessment of property at its true cash value, i.e., 100 per cent, and that while the constitution has required this at least since 1908, no one in the assessing field in the state of Michigan, with perhaps one or two exceptions, has accomplished that constitutional objective. In other words, nobody assesses at 100 per cent of true cash value. You have great disparity between assessments. The state tax commission attempts to prescribe the assessment of property at 50 per cent. In some counties this is pretty well achieved. In other counties there is wide disparity, real property frequently being assessed at 35 to 45 per cent, personal property from 65 to 80 per cent, and there is wide variation. Therefore, what the committee has proposed is that

The legislature shall provide by law for the determination of true cash value of such property and shall specify the proportion of true cash value at which such property shall be uniformly assessed,

In other words, the legislature could say that all property shall be assessed at 50 per cent of its cash value, letting the state tax commission and the assessing officers go to the level for which the state tax commission says it is now striving, or they could move to a level of 25 per cent or to a level of 35 per cent.

A majority of the committee felt, however, that this level prescribed by the legislature should not in any case exceed 50 per cent. The committee was divided on this point. Some felt that the legislature should have the complete scale between 0 and 100 per cent to prescribe if they wished, but the committee proposal specifies that it shall not exceed 50 per cent.

However, we recognize that in those counties which are currently assessing some of the property at a level substantially in excess of 50 per cent, it was going to take a while to get down to the maximum 50 per cent level. The state tax commission advises that, in particular in Wayne county where this is a major problem, in cooperation with the assessing officials in Wayne county, they expect to get down to 50 per cent within 3 years. They are now in the second year of a 5 year program, and it would take 3 years from now to get down to 50 per cent. For that reason the committee has allowed some tolerance. They have allowed a period of 4 years to get down to 50 per cent.

Now, it is recognized that not all property fits the pattern of general ad valorem taxation, taxation based on the value of the property. But the legislature years ago recognized that intangible property—securities, bonds, deposits in banks and so on—didn't fit this pattern and so it imposed the intangibles tax as a specific tax in lieu of general ad valorem taxation, and so we have recognized this and have said that the legislature shall provide by law a uniform rule for the general ad valorem taxation of real property and tangible personal property. This excepts intangible property automatically.

We have also recognized, however, that there may be kinds of property which should be subjected to ad valorem taxation, or taxation directed basically to property, which, nevertheless, doesn't fit the pattern of the general ad valorem tax picture, and so we have specified that the legislature may either exempt property or that it may provide for alternative means of taxation of property in lieu of general ad valorem taxation, and that this alternative taxation should be uniform upon the class or classes to which the alternative means are applied.

Let me give you 2 or 3 examples. One is the present system of special ad valorem taxation which is applied to the property of telephone companies. A building housing an office of the telephone company is not on the general property tax rolls of the community in which it is situated. It is assessed by the state tax commission. It is subject to a special state rate of taxation. Tax is paid into the state and it is distributed back to local school districts, and this is a form of alternative taxation of property in lieu of general ad valorem taxation. There are other taxes based on property which are not a part of the general property tax. For example, automobiles are subjected to a weight tax, which is in lieu of ad valorem property taxation. And the provision here for alternative means of taxation would permit the legislature to adopt to that extent the special classification of real or tangible personal property, taking it off the general ad valorem property tax rolls.

Now that, I think, Mr. Chairman, pretty generally covers the explanation of what the committee has attempted to do in the area of property taxation. Our objective is the achievement of uniformity, the establishment of uniform assessment at a level not in excess of 50 per cent of the true cash value of the property, and the conferring upon the legislature of reasonable flexibility in determining the types of taxation to which property will be subject. I think perhaps rather than going on at this point to the second section, which deals with other nonproperty taxes and in particular the question of a graduated income tax, it may be easier to stop here and try

to answer questions or deal with amendments which relate to the first section.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Taylor, Mr. Marshall.

MR. MARSHALL: Mr. Chairman, just a point of information and parliamentary inquiry. It is my understanding under the rules that a minority report is supposed to be taken up first. Am I correct in this?

CHAIRMAN BENTLEY: The Chair would rule that committee amendments will be taken up first, then minority report amendments, and then any other amendments from the floor.

MR. MARSHALL: Thank you.

CHAIRMAN BENTLEY: Are there questions of the gentleman from Birmingham on the first paragraph of the proposal?

The gentleman from St. Louis, Mr. Hoxie.

MR. HOXIE: Mr. Chairman, it is not a question in relationship to the substance of the proposal, but it has occurred to me that it has been the intention of this convention to keep a complete and accurate record of our proceedings, and it appears that Mr. Van Dusen suggested there was an error in the typing, which of course is not the fault of the committee, but I am wondering, for the benefit of the record, if it wouldn't be a better procedure, Mr. Van Dusen, to submit an amendment which will be printed in the journal, rather than to advise us of the striking or inclusion in these proposals from the floor.

MR. VAN DUSEN: Mr. Chairman, I think Mr. Hoxie's point is well taken, and if there is no objection to an oral amendment, I would move to strike the duplicated language starting on line 17.

SECRETARY CHASE: Mr. Van Dusen, on behalf of the committee on finance and taxation, offers the following amendment:

1. Amend page 1, line 17, by striking out "or for alternative means or taxation of such property from taxation,".

CHAIRMAN BENTLEY: Is there discussion on the amendment offered by the gentleman from Birmingham?

MR. SABLICH: Mr. Chairman, I have a question to ask Mr. Van Dusen.

CHAIRMAN BENTLEY: Is it on the amendment?

MR. SABLICH: It is not on the amendment, no.

CHAIRMAN BENTLEY: Will the gentleman suspend until we can dispose of the amendment.

Is there discussion on the amendment offered by the gentleman from Birmingham? If not, those in favor will say aye. Those opposed, no.

The amendment is adopted.

[This amendment treated as a correction. See above, page 857.]

The gentleman from Caspian, Mr. Sablich.

MR. SABLICH: I would like to ask Mr. Van Dusen to explain further why the committee decided on the 50 per cent limitation on the taxation of real property.

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

CHAIRMAN BENTLEY: The gentleman will state his point of order.

MR. AUSTIN: There is a minority report on this section, and I think that the minority report ought to be taken at this time; that is, assuming that the Chair agrees.

CHAIRMAN BENTLEY: The Chair will state to the gentleman from Detroit that it was his understanding that the gentleman from Birmingham was yielding for the purpose of questions on the general proposal at this time. Does the gentleman desire to offer the minority report in the form of an amendment at this time?

MR. AUSTIN: Yes.

CHAIRMAN BENTLEY: Will the gentleman yield for that purpose?

MR. SABLICH: I will yield.

CHAIRMAN BENTLEY: The secretary will read the amendment.

MR. GUST: Mr. Chairman, point of information.

CHAIRMAN BENTLEY: The gentleman will state it.

MR. GUST: Mr. Chairman, I do not have a copy of this minority report. Has it been made available to the delegates? I would like to read it myself as the secretary reads. I will understand it better.

CHAIRMAN BENTLEY: The gentleman from Detroit, Mr. Austin.

MR. AUSTIN: Mr. Chairman, there are 3 minority reports on this proposal. All 3 are found in today's journal—that is, yesterday's journal which was distributed today—Journal 73, beginning on page 520. The minority report applicable to this first paragraph and the one which we ought to discuss at this time is the last of the 3, found on page 523.

CHAIRMAN BENTLEY: The secretary will read the proposed amendment at this time.

SECRETARY CHASE: Pursuant to minority report C of Messrs. Austin, Binkowski, Ostrow, Pellow, Stopczynski, Walker and Young,

Mr. Austin offers the following amendment:

1. Amend page 1, line 8, after "Sec. a.", by striking out "The legislature shall provide by law a uniform rule governing the general ad valorem taxation of real property and tangible personal property.", and inserting "The legislature may by law authorize or impose ad valorem and other taxes which shall be uniform within the classes of persons or property to which they are applied."

CHAIRMAN BENTLEY: Is that the amendment the gentleman wishes to offer at this time?

MR. AUSTIN: That is the amendment.

CHAIRMAN BENTLEY: The gentleman is recognized in support of his amendment.

MR. AUSTIN: If you are interested in following me on this, you will turn to page 523 of the journal that was distributed this morning. The purpose of this amendment is to provide for classification of property for assessment purposes.

[The supporting reasons for minority report C to Committee Proposal 51 were read by Mr. Austin. For text, see above, page 856.]

There were some members of the minority who felt that the uniformity clause as it relates to property should be deleted from the constitution, but the language which is recommended is in the form of a compromise, feeling that if we are going to have uniformity, let's have uniformity within classes, but let's recognize that there are classes of property that ought to be assessed differently.

CHAIRMAN BENTLEY: Does the gentleman from Caspian desire to speak? Does the lady from Highland Park desire to speak on this amendment?

MR. AUSTIN: Mr. Chairman, I had not yet yielded the floor. I would like at this point to yield the floor to Mr. Binkowski for additional remarks.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Detroit, Mr. Binkowski, for additional remarks.

MR. BINKOWSKI: Mr. Chairman, ladies and gentlemen of the committee, as I indicated to you previously in the discussion on earmarking we were going to bring up this question of flexibility again, I think the problem is before us presently.

I realize that this is a rather complicated section, and I don't know to what extent you have had the opportunity to review all of the studies that we in the committee on finance and taxation have been dealing with in the last several months, but I think again the question before us is: to what extent do you want to provide flexibility, and to what extent do you want to untie the hands of the legislature? Now, if you want to maintain the present system, then, of course, you will not be in favor of our minority report. And I am sorry, Mr. Upton, I can't find your speech, because I wanted to use it with respect to this item of flexibility.

CHAIRMAN BENTLEY: Does the lady from Highland Park desire to speak on the Austin amendment?

MISS DONNELLY: No. I think my question is directed more to the majority report, although it is somewhat pertinent to the minority. I would like to enlarge on why intangibles must be inflexible. I don't know why they can't be

uniform, and there are conclusions all over the place that they can't be, but I would like to know why.

CHAIRMAN BENTLEY: Do you direct that question, Miss Donnelly, to any person?

MISS DONNELLY: Well, actually it was going to be directed to Mr. Van Dusen.

CHAIRMAN BENTLEY: The Chair will recognize Mr. Van Dusen for the purpose of answering the question and to speak in his own right.

MR. VAN DUSEN: Mr. Chairman, dealing first with Miss Donnelly's question, the minority report seems to suggest that under the majority proposal, the legislature could not deal separately with intangibles, stocks and bonds. I thought I made it reasonably clear that under the majority proposal, the uniform rule applying to general ad valorem taxation would not apply to intangibles. The reason is this: the rate of taxation applied to intangible property producing no income would amount to a capital levy. The legislature would simply extract a portion of the capital each year until the total amount of the capital was gone. And furthermore, intangibles have a way of escaping ad valorem taxation because it is a little bit difficult for the assessor to find 5 shares of American Telephone and Telegraph.

So, one, the great bulk of the intangibles were not being taxed under an ad valorem system; two, there was a considerable feeling on the part of the legislature when the intangibles tax was adopted that if the ad valorem tax structure were applied to intangibles, this would result, in effect, in a capital levy, and that the wiser way to tax intangibles was on a percentage of the income which they produced, which is the present system of intangible taxation. The majority proposal would permit the continuation of the present intangibles tax or some other means of the taxation of intangibles, as would the minority proposal.

Now let me, if I may, Mr. Chairman—well, perhaps it would be better to pursue Miss Donnelly's point.

CHAIRMAN BENTLEY: The lady from Highland Park still has the floor for purposes of her question.

MISS DONNELLY: But this intangible income producing is still being taxed uniformly?

MR. VAN DUSEN: Yes.

MISS DONNELLY: And your proposal does not mean that you do not wish it to be taxed uniformly?

MR. VAN DUSEN: By no means.

MISS DONNELLY: But it has allowed it perhaps not to be. Am I correct in that assumption? This is what disturbs me.

MR. VAN DUSEN: Mr. Chairman and Miss Donnelly, both the majority proposal and the minority proposal permit the classification of intangible property and the subjection of intangible property to special taxation uniform upon that class of property. That is the present system of taxation of intangible property. It would be continued under either the majority proposal or the minority proposal, unless the legislature chose, for example, to abolish the intangibles tax and adopt an income tax.

MISS DONNELLY: Thank you.

CHAIRMAN BENTLEY: Now the gentleman from Birmingham is recognized to speak in his own right, if he so desires.

MR. AUSTIN: Will you yield to comment on this?

MR. VAN DUSEN: In order to get continuity, I will yield to Mr. Austin for comment.

MR. AUSTIN: I would like to deal with this intangibles question while it is fresh in the minds of the delegates. I believe that the state and local governments attempted to tax intangibles property under the ad valorem rules prior to 1939, when it was finally concluded that the intangibles property should be removed from the ad valorem base and would be taxed by the state under a specific tax arrangement.

Now, I don't believe that any of us would at this moment be willing to admit or conclude that intangibles property is better taxed under the specific tax arrangement than it would be under ad valorem. There are some disadvantages in taxing intangibles under the specific tax arrangement, and I might add that intangibles property is not taxed uniformly. Intangi-

bles producing revenue are taxed differently from intangibles that do not produce revenue.

Now, as to the ad valorem taxation of intangibles, one of the problems in taxing intangibles, especially intangibles that do not have a par value, is that they are taxed at what is known as a stated value and they are not taxed at their real value if they do not produce any income, and many growth stocks do not pay dividends, so the state is unable to tax them on the basis of their dividends; it must tax them on their stated value. If they were taxed under ad valorem taxation, they could be taxed on their value, and I believe that the state would actually realize more revenue from the intangibles tax if they were being taxed under the ad valorem arrangement rather than under the present specific arrangement.

CHAIRMAN BENTLEY: The gentleman from Birmingham still has the floor.

MR. VAN DUSEN: Well, Mr. Chairman, I don't wish to engage with Mr. Austin in a lengthy debate of the desirability of the intangibles tax. I would like to point out, however, the practical impossibility of subjecting intangibles to our present ad valorem tax rate. Let's just take, for example, an individual that owns \$1,000 worth of American Telephone and Telegraph company stock. That stock would have produced last year an income of something in the neighborhood of \$35 for him in dividends. If he were subjected on that property to ad valorem taxation, and of course it would be assessed at its full 100 per cent cash value—let's take the typical community where the average tax rate may be 25 or 35 mills—he pays for the privilege of owning that stock on an ad valorem basis for all of his dividends in ad valorem property tax. This is why people didn't report their ownership of stocks for ad valorem taxation purposes. It is the reason that it didn't work. It is the reason that the legislature changed it.

Now, so much for the intangibles tax, because actually under either Mr. Austin's minority amendment or the majority proposal, that is a matter left completely up to the legislature, and the legislature has the complete flexibility and freedom to deal with it as a class no matter which of these proposals you were to adopt.

Let me just indicate that, in the first place, much of the minority report is directed not to the majority proposal which is before you, but to the present uniformity clause of the Michigan constitution, and what the majority proposal attempts to do is to introduce into the system of taxation of property in this state a greater degree of flexibility than is possible under the present uniformity clause without, however, permitting the unlimited classification which is suggested by the minority report.

Bear in mind that the opposite of uniformity, which is what the majority report seeks in property taxation, is discrimination. You either have uniformity or you have discrimination. Now, what the minority report suggests is that the legislature ought to have the unlimited right to discriminate in subjecting property to taxation. There just isn't any question about it. Classification is a form of discrimination.

Now, a majority of the committee was unwilling to permit the legislature that degree of flexibility, believing that it was in the interests of the taxpayers of this state that all who owned property be subjected to taxation on that property on the same basis—uniformity. This is the basic structural difference between the minority amendment which is now before you and the majority report. We found in our consideration of the matter that a wide degree of classification now exists without any constitutional sanction whatsoever.

As a matter of fact, in most Michigan communities it appears that an informal system of classification exists under which the property of voters is uniformly assessed at a rate considerably lower than the property belonging to nonvoters. This is the kind of discrimination in the imposition of the property tax which has caused industry to scream loud and long about the unfair burden of taxation which it bears in the city of Detroit. It is the kind of problem which the governor's tax program tries to alleviate within the framework of the present uniformity clause. It is the kind of discrimination which the

citizens for Michigan tax program attempts to eliminate. It is the kind of discrimination which can be and we hope will be eliminated under the majority proposal.

For these reasons I would urge you not to support the minority amendment, to vote no on it, and to support the majority report.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Muskegon, Mr. Hanna.

MR. W. F. HANNA: Mr. Chairman, I would like to address a question or two to Mr. Austin, if I may. Mr. Austin, can you tell me the number of states that have classification of real property as would be permitted under your amendment?

MR. AUSTIN: I don't believe I can tell you how many have real property, but there are a good number of them that classify personal property. I would be willing to agree to some restriction on classifying real property, but none on the personal property.

MR. W. F. HANNA: Mr. Austin, is the minority familiar with the Minnesota tax study, where Minnesota permits classification of real property and assesses at various rates of true cash value? And if my recollection is correct, labor, farm and business joined in the Minnesota tax study in recommending that the classification of real property be dispensed with and that the uniformity rule be applied to real property.

MR. AUSTIN: I think this is correct. And, as I said before, I would have no objection to no classification of real property.

MR. W. F. HANNA: My third question, Mr. Austin: do you know the number of states that permit classification of personal property?

MR. AUSTIN: I can't give you the number of states.

MR. W. F. HANNA: Are you familiar with the Robert Taft constitutional amendment, passed around 1933-34, allowing classification of personal property in Ohio, and the Ohio experience with that classification?

MR. AUSTIN: Yes, I am.

MR. W. F. HANNA: Well, if we adopted classification, would we not have to take the second step of the Ohio experience and provide for the assessment of personal property by a state department rather than by each local township or city assessor?

MR. AUSTIN: I am not sure as to whether it would be necessary to have state assessment, but I think we would all agree that the assessment would be more equitable. Now, there is one difference between what is done in Ohio and what is suggested here. In Ohio the classifications are in the constitution. Here we are proposing that the legislature classify and the legislature may from time to time make adjustments in these classifications. But if we fix it in the constitution, we might be in trouble.

MR. W. F. HANNA: Well, Mr. Austin, after they concluded and put in the Ohio constitution a part of that proposal, after due consideration and study, they found that the individual assessors would have difficulty in classification and assessment, and I believe it was the conclusion at that time—and is still the conclusion in Ohio—that the assessing then, once you get into classification, must be made by trained personnel, and the source of such trained personnel usually is a state agency where a given person can specify and be an expert in oil wells or gas pumps, and so forth.

MR. AUSTIN: You would not object to trained personnel for assessing here in Michigan, would you?

MR. W. F. HANNA: If you limit your proposal to personal property and follow the Ohio practice to its end result, I will support you.

MR. AUSTIN: Very well. We are perfectly willing to agree to a change which would prohibit classification of real estate but permit classification of personal property.

CHAIRMAN BENTLEY: The Chair will ask the gentleman if he desires to amend his minority report amendment, and if so, if he has anything in writing.

MR. AUSTIN: No, I don't have anything in writing because this was just suggested on the floor.

CHAIRMAN BENTLEY: I wonder if the gentleman can prepare something while we continue with the recognition of other delegates. The Chair recognizes the gentleman from Bay City, Mr. Higgs, to speak on the Austin amendment.

MR. HIGGS: I have a question for Mr. Austin which I will defer until he gets finished with what he is doing.

CHAIRMAN BENTLEY: Do you desire to yield the floor?

MR. HIGGS: Yes.

CHAIRMAN BENTLEY: Mr. Austin.

MR. AUSTIN: I would like to suggest that Mr. Binkowski and Mr. Hanna get together on an amendment if it is possible to work one out. Meanwhile, I will try to answer some of these other questions on the floor.

CHAIRMAN BENTLEY: Is the chairman of the committee seeking recognition? The chairman is recognized.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, I wish to comment on what Mr. Austin had to say on his minority proposal. We get down to a very clear cut question of whether or not we shall authorize the classification of property for ad valorem taxation. I want to admit in the first place that I came to the convention quite inclined to think that we might permit a limited classification, particularly a distinction between real property and tangible personal property, and the idea I had in that connection was that personal property was being taxed too high in many places and that a classification might permit a lower taxation of personal property. I thought—as I still think—that if there is any one tax being used in Michigan which has an adverse effect on our so called economic climate, it is the ad valorem taxation of tangible personal property.

We had a great many experts before the committee. Some of them thought that the classification of property, at least on a permissive basis to the legislature, was a good thing. A great many of them warned us that wherever it is tried it doesn't work, and that we ought not to go into it. But on one thing, so far as I was able to learn from their testimony, they universally agreed that what I had in mind wouldn't work out. If we were to permit classification of personal property on a different basis than real estate, instead of getting that personal property tax down, we were going to find it going up, and to that I certainly was opposed and I am still opposed.

We think that we have given the legislature everything that it needs to take care of certain kinds of personal property by a tax other than an ad valorem tax. If the legislature, for instance, should find that farm machinery that Mr. Austin has mentioned, which works only 2 or 3 or 4 days a year, should be subject to a specific tax instead of the ad valorem tax, that can be taken care of. If they find that our personal property tax is having an adverse effect on our industrial climate and wish to make a classification of tools and dies and tax them on a specific part of their cost or some other basis rather than ad valorem taxation, that they can do.

A majority of the committee is opposed to a general release from the uniformity clause and opposed to the ability on the part of the legislature or by constitutional provision to authorize classification of ad valorem taxation.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Binkowski.

MR. BINKOWSKI: Mr. Chairman, ladies and gentlemen of the committee, I would like to emphasize the point that the minority is not advocating any particular type of classification or any particular type of program. Again, the issue is flexibility. We are writing a basic document, and the question is to what extent you want to tie the hands of the legislature.

Now, we don't want to get involved here with the merits or demerits of any particular type of Ohio classification. The question is whether you leave all these details to the legislature or not. Let them decide. They have more time and perhaps even better experts than we had in our committee on finance and taxation.

Now, we just spent a couple of months hitting some of the high points in these areas. So the question is not any particular type of classification or system or anything else. Again, the question is flexibility. Do you want to untie the hands of

the legislature so that in the next 25 or 30 or 50 years some type of proposal or some type of program which has been found workable in another state or which can be devised will then be able to be put into effect? And we maintain that under the rigid uniformity rule which the majority has suggested, the legislature will not be able to do this.

Now, the second point with respect to discrimination: one of the points that we neglected to put in our report is that you have an equal protection clause both in the state constitution and in the federal constitution so that no one can discriminate against anyone within any class unreasonably. There will have to be a reasonable classification. And anyone who has studied this matter knows that those guarantees afforded by the equal protection clauses give you the type of protection that you need with respect to uniformity.

So again—I sound like a broken record—but the question is flexibility.

CHAIRMAN BENTLEY: Will the gentleman yield to the gentleman from Birmingham at this point? You have the floor, do you yield to the gentleman from Birmingham?

MR. BINKOWSKI: By all means.

MR. VANDUSEN: I think, Mr. Chairman, Mr. Binkowski perhaps draws the issue rather sharply. I think that there is a question here as to how much unlimited flexibility you want to give the legislature in the area of taxation. I think that we all recognize that a constitution is a limiting document so far as the powers of the legislature are concerned, and certainly there is no area of legislative power which must be more carefully defined than the power to tax.

It is a cliché, but the power to tax is the power to destroy. Therefore, the people in establishing the basic document of the state should reasonably impose some limitations on that power, and the limitation requiring the legislature to impose taxation uniformly is, it seems to me, a highly desirable limitation.

CHAIRMAN BENTLEY: Is the gentleman from Bay City seeking recognition at this time, Mr. Higgs?

MR. HIGGS: Mr. Chairman, I have 2 questions that I would like to direct to Delegate Austin, and perhaps I had better direct the first one and yield to him and then direct the second. The first question has to do with the statement of Delegate Brake. I too feel that the personal property tax as it is presently being levied in Michigan is a burdensome and unfair tax and that some relief in this area would be desirable, but what do you say about the statement of Delegate Brake that this provision is likely to result in a revision upward of the personal property tax?

MR. AUSTIN: It would be left to the legislature to decide whether it wanted to lower or raise. It would be entirely up to the legislature. And let me remind you that when we talk about the taxation of personal property, we have to consider that there are all types of commercial enterprises that are involved. We like to make distinctions, for example, between those industries or commercial interests that are job producing and those that are not, and it is quite conceivable that the legislature may want to classify, for purposes of taxation, the personal property of job producing industry, particularly those that do not need to locate in Michigan but whom you may be interested in attracting to the state of Michigan, differently from the property of those businesses that must feed off the local economy.

And to be a little more specific, let us consider an automobile manufacturer who is thinking seriously of decentralizing his operations, and in order to be closer to markets may want to locate elsewhere. He may be encouraged to remain in Michigan if we are able to classify personal property so that there is some advantage given to him. On the other hand, let us consider a retailer, a department store. If a department store is to do business in a community, it must be located in that community, and there may not be the same reason for giving a similar type of concession. In other words, it is a matter of recognizing that there are different problems, different incentives, and we ought to leave it to the legislature to work them out and to make the best determination for all of the people of Michigan.

MR. HIGGS: My second question: in reading the committee proposal, section a, the first sentence provides for a uniform rule with regard to general ad valorem taxation. In line 21 the same proposal provides that every other tax shall be uniform upon the class in which it operates.

And I note that in your proposal, you state that your provision applies to ad valorem and other taxes which shall be uniform within the classes of persons or property to which they are applied. I would like to ask what other taxes—other than ad valorem taxes—are involved, and whether or not this would apply to the income tax.

MR. AUSTIN: Well, there is a separate minority report on the question of the income tax, and rather than get into a lengthy discussion of the income tax at this time, I would like to defer comment on it, except to say that the minority has no objection to uniformity within classes on any tax, whether it be specific tax or whether it be property tax. It is just that we don't feel that there should be general uniformity. We don't believe that you can apply a tax to all classes of property or all classes of subjects in exactly the same form, and I would like to just give you one brief example. I believe you are familiar with the inheritance tax. I think you are aware that there is a graduated rate structure in the inheritance tax. In designing the inheritance tax, it was concluded that it was advisable to have lower rates on lower amounts of property that are being transferred on death to other persons, and as the amounts increase, the rate is increased, and this, of course, has been established by the courts as being uniformity within classes, and we see no reason why this should not be continued.

MR. HIGGS: Mr. Chairman, just one final conclusion then that I would draw: if Delegate Austin's interpretation of the inheritance tax structure is correct as applied—this language as applied to that tax—it would seem the same conclusion would apply then to the income tax and that uniformity within classes would permit a graduated income tax, would it not?

MR. AUSTIN: Well, of course, it is very difficult for the minority to see how you can permit graduation under inheritance and not permit graduation under income. But again, may I suggest that we defer our discussion on the income tax until we get into that section, because that is going to be another long subject.

MR. HIGGS: Well, Mr. Chairman, then I would conclude with the fact that I would find it difficult to vote on this particular minority report amendment if we must defer discussion on that particular proposition.

CHAIRMAN BENTLEY: Does the gentleman from Bay City yield to the gentleman from Birmingham, who is seeking recognition, a member of the committee?

MR. HIGGS: Yes.

MR. VANDUSEN: Mr. Chairman, I would just like to comment briefly. Mr. Austin raised the question of the inheritance tax and may have left the inference that if the committee proposal were adopted, the present inheritance tax could not be continued. This is, of course, not the case. The committee proposal envisions the continuation of the inheritance tax on exactly the same basis as it is presently imposed.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Nord.

MR. NORD: Mr. Chairman, in an effort to get this discussion to a determinative phase, I would like to state the issues as I see them, what the issues are and also what the issues are not. As I see it, 2 issues have been raised by various different people. One issue is discrimination. The other is flexibility. I would like to make some comments about those 2 issues, and then I would like to comment on what is not the issue.

First of all, as to discrimination: Mr. Van Dusen has spoken in very glowing terms against discrimination. I join him in that noble motive. I don't believe in discrimination. I doubt whether anybody here will raise his hand and say that he supports discrimination. We already had 2 unanimous votes in this convention which indicate that we don't believe in discrimination, and if we did believe in discrimination, it would make no difference, as Mr. Binkowski pointed out; we are not

permitted to discriminate because the federal constitution has a provision known as equal protection of the laws. It has had that for over 100 years. That has always been available to the people of the state.

I might say that I am very impressed with the equal protection of the laws clause in the United States constitution. There are suits pending right now which bear on some of the matters before us which relate specifically to that section, so you can be sure that I certainly support the idea of equal protection of the laws. But equal protection of the laws does not mean that the majority proposal is correct. It only requires uniformity within classes, not uniformity in every respect, provided the classes are reasonable, provided the distinction between one class and another is reasonable. If that is so, it does require uniformity within those classes.

Now, that is part of the federal law and it governs the state of Michigan. But I realize that up to this time, we did not have an equal protection of the laws clause within our own constitution, and if anyone wished to urge the equal protection of the laws, he would have to rely on the federal constitution. Of course, that did govern the state courts of Michigan in any event. But I would like to call to your attention that we have considered this very subject in this convention and we have decided to incorporate our own equal protection of the laws clause for the first time. We now have adopted an equal protection of the laws clause that is not in the Michigan Constitution of 1908. It will be in this constitution. Now, if we put that in, we don't need some things that were in before, and one of the things we don't need that was in before is this specific language that there must be uniformity, with no ifs, ands or buts.

The correct approach now under the equal protection of the laws clause is basically that suggested by the minority report. I noted that when Mr. Binkowski brought this question up about equal protection of the laws and pointed out that discrimination is not a question whatever here, Mr. Van Dusen, replying, implicitly agreed with him. He dropped the question of discrimination, which I think is the correct thing to do, and he limited his remarks to flexibility, and it seems to me that we can agree that discrimination is not the issue; flexibility is the issue.

Now, as to flexibility, this is one of the most baffling questions that comes before the convention. On one day some of us are in favor of flexibility and the next day we are against it and the next day we are for it. It seems to be some mysterious thing which drives us to alternate like an alternating current on this question. It seems to me that we ought to make up our minds whether we are for flexibility or whether we are not, and if we are for it, under what circumstances we are, and under what circumstances we are not. I recall in the questions about earmarking many of us said we did not want flexibility. Others said they did. I recall taking the floor on this subject myself, and I said, "To me, flexibility, or earmarking, which is an example of it, is not a basic principle of morals but it is a question of practicality and it depends on the facts." And I stated—I believe this is a correct approach—that we should always be for flexibility unless we have a darn good reason not to be in a specific case.

Now, when it comes to earmarking of school funds I thought that the history of this state and the experience of the people here showed that we had to have earmarking of school funds. I favored that. I opposed earmarking for highways because I didn't think experience dictated that we needed to do that.

Now, when it comes to this particular question of taxes and the fear that if there is flexibility, something will go wrong, I raise this question: is there any evidence to justify that fear? Has something gone wrong in the history of the state of Michigan with respect to something wrong that the legislature has sought to do or has done with respect to nonuniformity of taxes?

Here, it seems to me, we don't have any historical evidence to show that we should be afraid of flexibility and, in my opinion, when we have no reason to fear, based on experience, flexibility for the legislature, we should adhere to flexibility for the legislature. Now, I would like to point out what I believe

is not the issue. I stated that, in my opinion, discrimination had been raised as an issue but it has been removed. Flexibility remains the issue. What is not the issue? What is not the issue is what type of classification would be a nifty idea. Nobody knows what type of classification at this point would be a good idea, and as far as I know, no one has suggested a scheme for classification. That is not the issue.

The issue is whether the legislature within the next 50 years should have the opportunity to investigate that question and determine the answer for itself. I would also like to point out that we have to make certain calculations and deductions and guesses as to the future, the next 50 years, in order to be certain that the majority proposal is correct. We have to assume that there never can be a proper scheme of classification. We have to be sure that we know all the different kinds of property that will exist within the next 50 years, and that none of them will require separate classification. How are we going to be sure what kinds of properties, even, to say nothing of what kind of classification schemes might exist?

I noted that several delegates pointed out that certain kinds of property already ought to be thought of in different terms than other kinds. It was pointed out by some people that real property is not exactly to be treated the same as personal property. It was also pointed out by another delegate that tangible personal property ought not to be necessarily treated the same as intangible personal property.

I suggest that there are reasons to suspect that there may be these kinds of possible distinctions between one kind of property and another, and there might even be other kinds of property that we know nothing about which could exist within the next 50 years. When in doubt, and when there is no history to show a reason why we should fear giving the legislature the power, I think we should give it.

I think further that what we are faced with now is not a logical reason for the majority proposal. I know of no reason that has been advanced in favor of it except discrimination, but that has been removed, in my opinion, as an issue. What reason is left over after that? It seems to me only one reason is left over, and that is just plain fear. I don't believe that we should glorify fear for fear's sake. If there is a reason for fear, we should be fearful, but if not, let's not raise fear to a constitutional principle. I support the minority report amendment.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, Mr. Brake.

MR. BRAKE: I move the committee rise.

CHAIRMAN BENTLEY: Before the Chair puts that motion, Mr. Brake, he would like to state that the following are on the list as having requested recognition: the gentleman from Hillsdale, Mr. Prettie; the gentleman from St. Clair Shores, Mr. Snyder; the gentleman from Detroit, Mr. Ostrow; the gentleman from Detroit, Mr. Ford; the gentleman from Ypsilanti, Mr. Lawrence; the gentleman from Ridgeway, Mr. Upton; the lady from Dearborn, Mrs. Cushman.

The motion is that the committee do now rise. All those in favor vote aye. Those opposed?

The motion prevails and the committee will rise.

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

PRESIDENT NISBEST: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, the committee of the whole has had under consideration several items on the general orders calendar on which the secretary will give a detailed report.

PRESIDENT NISBET: Mr. Chase.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 43**, A proposal pertaining to aliens and property rights; **Committee Proposal 44**, A proposal pertaining to the schedule; **Committee Proposal 49**, A proposal with reference to the borrowing of money by public corporations and bodies; and **Committee Proposal 50**, A proposal to require the legislature to provide sufficient taxes to meet the state's expenses covering

the substance of section 2, article X of the 1908 constitution; reports these proposals back to the convention without amendment and with the recommendation that they do pass.

PRESIDENT NISBET: Without objection, **Committee Proposals 43, 44, 49 and 50** will be referred to the committee on style and drafting.

For Committee Proposal 43 as referred to the committee on style and drafting, see above, page 845.

For Committee Proposal 44, as later amended and referred to the committee on style and drafting, see below, page 866.

For Committee Proposal 49 as referred to the committee on style and drafting, see above, page 852.

For Committee Proposal 50 as referred to the committee on style and drafting, see above, page 853.

SECRETARY CHASE: The committee of the whole has also had under consideration **Exclusion Reports 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025 and 2026**; and reports these exclusion reports back to the convention without amendment and with the recommendation that they be adopted.

PRESIDENT NISBET: The question is on the adoption of the exclusion reports as listed. Those in favor say aye. Opposed, no.

Exclusion Reports 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025 and 2026 are adopted and referred to the committee on style and drafting.

For Exclusion Report 2016 as referred to the committee on style and drafting, see above, page 845.

For Exclusion Report 2017 as referred to the committee on style and drafting, see above, page 846.

For Exclusion Report 2018 as referred to the committee on style and drafting, see above, page 846.

For Exclusion Report 2019 as referred to the committee on style and drafting, see above, page 850.

For Exclusion Report 2020 as referred to the committee on style and drafting, see above, page 850.

For Exclusion Report 2021 as referred to the committee on style and drafting, see above, page 851.

For Exclusion Report 2022 as referred to the committee on style and drafting, see above, page 851.

For Exclusion Report 2023 as referred to the committee on style and drafting, see above, page 851.

For Exclusion Report 2024 as referred to the committee on style and drafting, see above, page 851.

For Exclusion Report 2025 as referred to the committee on style and drafting, see above, page 852.

For Exclusion Report 2026 as referred to the committee on style and drafting, see above, page 852.

Mr. Higgs.

MR. HIGGS: Mr. President, did we vote on Committee Proposal 44? It seemed to me that was referred to style and drafting without any vote in the convention. I have an amendment. I was seeking recognition at that time.

PRESIDENT NISBET: Without objection, we will return to the reference of **Committee Proposal 44** to committee and Mr. Higgs can offer his amendment.

MR. HIGGS: It is the same amendment which I made in the committee of the whole. I have another copy of it.

SECRETARY CHASE: This is a proposal from the committee on miscellaneous provisions and schedule, **Committee Proposal 44**, A proposal pertaining to the schedule.

Mr. Higgs offers the following amendment to the proposal:

1. Amend page 1, line 16, after "individuals," by inserting "partnerships."

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

previous question. A division has been demanded. Is the demand supported? A sufficient number up.

The question now is: shall the previous question now be put? Those in favor say aye. Opposed, no.

The motion prevails. The question is now on the amendment. Those in favor will vote—

MR. BOOTHBY: Mr. President, I call for a record roll call vote.

PRESIDENT NISBET: A record roll call vote has been demanded. Is there a sufficient number up for that? A sufficient number up.

Now the question is on the amendment. Mr. Chase will read the amendment.

SECRETARY CHASE: Pending is the amendment:

[The amendment was again read by the secretary. For text, see above, page 864.]

PRESIDENT NISBET: Those in favor of the amendment will vote aye. Those opposed will vote no.

SECRETARY CHASE: Has everyone voted? The machine is locked and the votes will be recorded.

The roll was called and the delegates voted as follows:

Yeas—63

Anspach	Higgs	Richards, L. W.
Austin	Howes	Rood
Baginski	Hubbs	Rush
Blandford	Hutchinson	Shaffer
Bledsoe	Iverson	Shanahan
Bonisteel	Leibrand	Sharpe
Boothby	Liberato	Sleder
Brake	Lundgren	Spitler
Butler, Mrs.	Madar	Stafseth
Conklin, Mrs.	Mahinske	Sterrett
Cudlip	McAllister	Stevens
Dehnke	McCauley	Thomson
Donnelly, Miss	McLogan	Tubbs
Doty, Dean	Ostrow	Turner
Faxon	Pellow	Tweedie
Finch	Perlich	Upton
Garvin	Powell	Van Dusen
Gover	Prettie	Wanger
Greene	Pugsley	White
Gust	Radka	Wood
Heideman	Richards, J. B.	Yeager

Nays—67

Andrus, Miss	Follo	Millard
Batchelor	Gadola	Mosier
Beaman	Goebel	Murphy
Bentley	Hanna, W. F.	Nord
Binkowski	Hannah, J. A.	Page
Brown, G. E.	Hart, Miss	Perras
Brown, T. S.	Haskill	Plank
Buback	Hatch	Pollock
Cushman, Mrs.	Hodges	Rajkovich
Dade	Hood	Sablich
Danhof	Judd, Mrs.	Seyferth
Davis	Kelsey	Shackleton
DeVries	King	Snyder
Doty, Donald	Kirk, S.	Staiger
Douglas	Knirk, B.	Stamm
Downs	Koeze, Mrs.	Stopczynski
Durst	Krolkowski	Suzore
Elliott, A. G.	Kuhn	Walker
Elliott, Mrs. Daisy	Leppien	Wilkowski
Erickson	Lesinski	Woolfenden
Everett	Martin	Young
Farnsworth	McGowan, Miss	Youngblood
Figy		

On the amendment, the yeas are 63; the nays are 67.

PRESIDENT NISBET: The amendment is not adopted.

Committee Proposal 44, as amended, is referred to the committee on style and drafting.

Following is Committee Proposal 44 as amended and referred to the committee on style and drafting:

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

That no inconvenience may arise from the changes in the constitution of this state, and in order to carry the same into complete operation, it is hereby declared that:

Sec. a. All laws not repugnant to this constitution, shall remain in force until they expire by their own limitations, or are altered or repealed.

Sec. b. 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 shall continue unaffected except as modified in accordance with the provisions of this constitution.

Sec. c. All officers filling any office by election or appointment shall continue to exercise 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.

Sec. d. The attorney general of the state shall recommend to the legislature at the commencement of the next session such changes in existing laws as may be deemed necessary to adapt the same to this constitution.

Mr. Chase will read.

SECRETARY CHASE: The committee of the whole, Mr. President, has also had under consideration **Committee Proposal 51**, and has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: It has been suggested that during the afternoon session, at approximately 3:20 or 3:30, in order to have a little relaxation and rest, the chairman of the committee of the whole will suggest that the committee stand at ease for 5 or 10 minutes. That will be his prerogative.

Mr. Bentley.

MR. BENTLEY: Mr. President, I move that the convention resolve itself into committee of the whole for consideration of items on the **general orders** calendar.

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

The motion prevails. Mr. Bentley.

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

CHAIRMAN BENTLEY: The committee will be in order. The pending business before the committee is **Committee Proposal 51**, the minority report c amendment of Mr. Austin and others to the committee proposal.

For minority report c, see above, page 856.

The Chair has several individuals who have been seeking recognition, but there has been a request from the sponsor of the pending amendment to clarify 1 or 2 items and, without objection, the gentleman from Detroit, Mr. Austin, will be recognized out of order at this time.

MR. AUSTIN: Thank you. Mr. Chairman, ladies and gentlemen of the committee, I would like you to refer to Journal 73, page 523, and Journal 69, page 404. The minority report is on page 523, and the minority proposal is that "The legislature may by law authorize or impose ad valorem and other taxes which shall be uniform within the classes of persons or property to which they are applied." A question has been raised by the inclusion of the language "and other taxes" at this point in the committee's proposal, and if you will refer back to page 404, the first sentence of the committee's proposal

which the minority proposal seeks to replace is as follows: "The legislature shall provide by law a uniform rule governing the general ad valorem taxation of real property and tangible personal property"; with no reference to "other taxes." The last paragraph of the committee proposal reads, "Every other tax shall be uniform upon the class on which it operates." This is language that the committee included to take care of taxes other than property taxes.

We have 3 minority reports on this same article or this same section. One of our minority report amendments seeks to delete that last paragraph, and since we are suggesting that the last paragraph be deleted, it was necessary that we include in our first sentence the reference to other taxes. I thought this point ought to be made clear because it was raised earlier as to why we did include other taxes in our substitute.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Hillsdale, Mr. Prettie.

MR. PRETTIE: Thank you. Mr. Chairman and fellow delegates, I have a question that I wish to address to Mr. Austin with reference to the minority report amendment that we have under consideration. I would also appreciate any comments that Mr. VanDusen or other sponsors of the committee report might wish to make following Mr. Austin's comments or answer to my question. Probably in presenting this question, I will display my abysmal ignorance of the subject under consideration, but as I understand it, we are starting from sections 3, 4, 7 and 8 of our present constitution, which I have examined and which seem to refer to the subject of uniformity, either ad valorem or within classes as to specific taxes, on property.

We have had a very enlightening debate this morning on uniformity versus flexibility and classification versus discrimination. So far in this presentation I have heard discussion only as to the matter of classification as it applies to property, except possibly a rather oblique reference in a reply to a question by Mr. Higgs having to do with classification of personal property of industries versus those inventories and so on of stores and other business entities.

My question, Mr. Austin, is this: in your minority report you refer not only to classification of property but you refer also to classes of persons. Would you please elaborate on the meaning of that language in this minority report.

MR. AUSTIN: The reference to persons, again, applies to the last paragraph of the committee report, which states that "Every other tax shall be uniform upon the class on which it operates." The intention of the minority report is to indicate that, in reference to other taxes, there may be some necessity for including language which would indicate that these taxes must be uniform upon the classes of persons to whom they apply.

If, for example, we were going to levy an income tax, you had persons who had incomes, say, of \$5,000 and persons with incomes of \$10,000, you would be permitted to levy a different rate of tax upon persons in these different classes.

Now, I would certainly assume that anyone who opposes the so called graduated income tax would probably be opposed to uniformity within classes of persons, but this is to make clear what the intent is.

MR. PRETTIE: Thank you very much. Then, briefly stated, as I understand it, the language "classes of persons" is necessitated in order to be consistent with the other amendment providing for a graduated income tax?

MR. AUSTIN: Well, let us say it is necessary to the minority report amendment to make sure that a graduated income tax would not be prohibited.

MR. PRETTIE: Thank you, Mr. Austin. I am wondering if Mr. VanDusen, as one of the sponsors and the speaker for the committee on the majority report, would care to comment on Mr. Austin's answer.

CHAIRMAN BENTLEY: The gentleman from Hillsdale yields to the gentleman from Birmingham.

MR. VANDUSEN: I think my only comment, Mr. Chairman, would be that Mr. Prettie's question and Mr. Austin's

answer point up the degree of classification and, in my judgment, discrimination which is contemplated by this minority report amendment. That is one of the reasons that the majority feels that uniformity in property taxation is desirable.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from St. Clair Shores, Mr. Snyder.

MR. SNYDER: Thank you, Mr. Chairman. I arise to support the position of the minority of the committee. I feel that their position is well taken. And I note with specific interest subsections a, b and c of their report. I feel that the matters contained in subsections a and b have already received some discussion, and I feel that I would like to confine my comments to subsection c, because this is one which I am a little bit more familiar with. We have here a question of encouraging economic climate in Michigan, and I will point out that when you attempt to encourage economic climate, you must recognize the entire scale. And I speak, coming back recently from my community in which last week members of the local chamber of commerce at one of their meetings asked what were we as delegates doing at the convention to attempt to encourage the smaller businessmen to withstand the rivers and the hazards of today's political and economic climate. I told them it was my opinion that we sincerely were going to try to look into these matters that affected them vitally.

And I feel that here we have one that cuts very close into the question of whether they will survive or not survive. I was very fortunate to have in my files a communication dated September 6, 1961, from Bill Crouchman, our city assessor. We didn't anticipate this problem, but we were exploring methods by which we could come in and present to the people at this convention some of the problems confronted by the folks back home. And as of this date, Bill Crouchman, our hometown local assessor, who at that time had, I am sure, no idea that he would appear in the official records of the convention and possibly even make a contribution, gave me a communication. This is addressed to myself from Bill Crouchman, the city assessor of the city of St. Clair Shores. Subject, personal property taxation. He starts out:

The personal property tax includes such items as stocks, fixtures, furniture, signs, machinery and goods on consignment.

Then there is one paragraph here which I feel is pertinent. He says — and this is quoting Bill:

Personal property tax seems unfair in many respects, such as neighborhood hardwares that must keep a stock of \$20,000 to \$30,000 to be successful and pay on this amount. Compare this with the real estate office, which perhaps has a total value of \$500 to \$800, and pays on that amount. By the end of the year, each may net the same profits, but the hardware man has a much larger investment to do so.

Another example is stock in the process of being machined and must be claimed by the machine shop doing the machining although not owned by the same.

If you have any further questions, I will be happy to answer them if possible.

Now, one of the arguments that was advanced by the speakers in opposition to the amendment today was the fact that a close look at this type of an assessment would require an assessor that was skilled and knew his job. I don't think that this is an argument that we should hold against this thing, because wherever possible we should encourage people who are doing the assessing work to be skilled and to do a job. I will admit that it may cause a temporary inconvenience to some, but I feel that it may mean survival to a very important segment of our economy, the fellow back home who many of us have contact with who is groping, seeking and searching for methods to survive under today's very difficult economic climate, and certainly I hope that you can take Bill Crouchman's word back home to your heart and try to give him, the small businessman, the relief that he so rightfully needs.

I feel that the minority report amendment does move along in this direction, and I would support it.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Ostrow.

MR. OSTROW: Mr. Chairman, ladies and gentlemen of the committee, I am one of the delegates who signed the minority report, and as a matter of fact I was the one who made the motion in the taxation committee to have the minority report included in the present constitution. First I would like to point out that the subject under discussion in this minority report, the 50 per cent limitation on taxation and the prohibition against an income tax, are not interrelated in this discussion. Each was separately treated by the majority of the members, and each is separately treated by the minority reports.

Now, I would like to address myself to some of the statements that were made by previous speakers. Mr. Van Dusen said that most of the businesses that moved out of Detroit that he was familiar with moved out of Detroit because of discrimination in real estate taxes. That has not been my experience. In every instance that I know of where anybody moved out of Detroit because of taxes, it was because of the unfair burden of the personal property taxes.

Now, it is not just a Detroit problem; it is a state problem, and a lot of other states have the same problem with personal property taxes. There exists—or there did exist when I lived in California—a string of warehouses in Arizona whose sole purpose was to hold inventories for California merchants who found it economical to have inventories in Arizona to escape burdensome California personal property taxes.

Now, Mr. Van Dusen referred to the discrimination that might exist if we went to uniformity by classification. I submit that there is no such problem. As a matter of fact, from the standpoint of job producing industry, there is discrimination under the present system. If you invest a thousand dollars in stocks or bonds, you have a lower, more favorable intangibles tax rate, but if you invest that same thousand dollars in job producing machinery, you must pay the same tax that you pay on real estate. This is even more burdensome when you have either inventories or machinery that do not produce income, that are not used in manufacture. For example, I know of several instances where Ohio manufacturers of heavy equipment wanted to establish sales and service warehouses here, bring in equipment, put them under power, merely for the purpose of demonstration, but because of the burdensome personal property rate on that equipment here by comparison with Ohio, they found it more advantageous to keep them in Ohio. Let's assume, for example, you were a distributor or a wholesaler. You were serving Michigan, Ohio, Indiana—there are parts of the state where a matter of a few miles you are in one state or another. These warehouses, where you pay personal property tax on merchandise that just lies there waiting to be shipped, the difference in tax on that merchandise can make a difference in the choice of location of Michigan, Ohio and Indiana.

Now, some point was made of the fact that if you have uniformity by classifications with separate treatment of personal property, that you would have to have skilled assessors. We hope that in all property that is assessed, the assessors know their business, whether it is real property, personal property or any other property. The same property that is today being assessed will continue to be assessed, but by a different method. On an ad valorem basis it will not require any greater skill to assess it at a different rate than it requires today to assess it on the same rate as real estate because the valuation problem is the same. It is the rate that you apply to the valuation that might conceivably be different.

Now, if we are going to have fairness in taxation, as we are getting in to more and more different kinds of property, the legislature over the next 50 years must have the leeway to classify that property so that it is fair not only to the persons being taxed but to the persons in other classifications so that the tax, while resulting in income to the community, at the same time will not be a deterrent to the growth of our industry and our general business climate.

CHAIRMAN BENTLEY: Does the gentleman from Detroit

desire to yield to the gentleman from Birmingham, Mr. Van Dusen, for a question or a reply?

MR. OSTROW: Yes.

MR. VANDUSEN: Thank you, Mr. Ostrow. Mr. Chairman, I would just like to comment briefly, because Mr. Ostrow did comment on a couple of points which I had made, that I believe Mr. Ostrow has rather eloquently demonstrated the reason why a majority of the committee asserts the need for uniformity. I completely agree with Mr. Ostrow that the discrimination in Detroit is between real property and personal property, with personal property bearing a heavier burden of assessment and a heavier burden of taxation. Every industrial taxpayer who is subject to the personal property tax in the city of Detroit who came before our committee strongly urged uniformity of assessment as between real and personal property. I think that the examples Mr. Ostrow has given eloquently testify to the need for uniformity.

We have operated under a constitution which requires uniformity which has been honored in the breach, particularly in Wayne county—but it is not confined to Wayne county by any means—by an assessment practice which assesses real property at a considerably lower level than personal property. All we are asking is that they be put on a parity. This minority amendment would simply throw the mantle of respectability over the unconstitutional practice of discriminatory assessment which has prevailed for 20 years or more.

CHAIRMAN BENTLEY: The gentleman from Taylor, Mr. Ford, is recognized.

MR. FORD: I simply want to take issue with Mr. Van Dusen's conclusion that the practice has been unconstitutional. This has been tested. All of the local units of government around Wayne county have had the experience of being before the tax commission annually for a number of years now with Detroit Edison, Michigan Consolidated Gas, Ford Motor company and General Motors wherever they own property. We all have had the experience with Detroit Edison and Michigan Consolidated because they go into every community in Wayne county. And for years they have argued as Mr. Van Dusen is arguing now and they have been quite successful before the tax commission in making adjustments in their taxes.

What Mr. Van Dusen is saying in effect is that in those communities where it is now the practice to assess individual homes at a lower level of actual cash value than personal property, such as the inventory in the business and the machinery in an industry, and such as the gas lines in place and the poles and wires of the utilities, we will even this all up, and by evening it all up, he doesn't mean we are going to leave the utilities where they are and bring the others up to them; we will bring them down and we will make up the difference in financing local government by raising the taxes on the individual homeowner. That would be the end result of what the committee is seeking to do with this coupled with the other provision.

CHAIRMAN BENTLEY: Mr. Upton.

MR. UPTON: Speaking as a member of the taxation and finance committee, we have looked into this matter for many months. I would like to disagree with Dr. Nord's remarks that this is not a discriminatory idea. To me, Dick Austin brought out the point that we were all fearful of in our committee; namely, that a tax commission could give leeway to one industry and not another. If an industry wants to stay in Michigan, he says, we can give them tax relief. However, if he can't leave Michigan, we will tax them at a good rate. This is the thing that uniformity prevents, and I believe that the people of Michigan expect uniformity in the real estate and personal property taxes.

As you note in our committee report, we have attempted to eliminate the wide variety of taxes you can get in this limit by bringing it down to 50 per cent. I know we are not discussing that point at this time, but this is the purpose of the committee's report. The difference that a tax commission or tax authority would give to one business or another, I believe, would be a detriment to our business climate here in Michigan.

So therefore, I believe that it is a discriminatory item that we are concerned with and not just a plain flexibility one.

Yesterday I was arguing for flexibility. I am still arguing for flexibility, but we in this constitution must establish the guidelines for a tax base, and once those are established, then I would like to see our legislature have an entire flexibility to spend the revenues that will be coming in from these taxes that we have established as a guide and as a base. Therefore, I hope that the committee of the whole will oppose this minority report amendment.

CHAIRMAN BENTLEY: Does the gentleman from St. Joseph desire to yield to the gentleman from Detroit, Mr. Austin?

MR. UPTON: Yes, sir.

MR. AUSTIN: Thank you, Mr. Chairman, Mr. Upton. I do feel compelled to respond to Mr. Upton's remarks, because not only his remarks but some of the other remarks made on the floor have tended to confuse the intent of the minority amendment. What the minority amendment suggests is that the legislature may by law authorize or impose ad valorem taxes. This is not a matter to be left to the discretion of the local administrators. The problem today is that this is exactly what the case is. Under the present constitution, local administrators are in a position to discriminate, and the legislature—and I certainly want to be corrected on this if I am stating it incorrectly—is powerless to do anything about it.

What we are trying to do is to provide that the legislature may by law impose ad valorem taxes which shall be uniform upon classes, and not leave it to these administrators to discriminate. If there is any discrimination as such to be done, it would be done by the legislature.

CHAIRMAN BENTLEY: The Chair recognizes the lady from Dearborn, Mrs. Cushman.

MRS. CUSHMAN: I have a couple of questions I would like to ask both Mr. Brake and Mr. Austin. I am not quite clear about the effect of this third sentence here, "The legislature may provide by law for the exemption of such property from taxation, or for alternative means of taxation of such property in lieu of general ad valorem taxation, uniform upon the class or classes" and so forth, upon the first sentence, which provides that the legislature shall provide a uniform rule covering general ad valorem taxation of real and tangible personal property. Now, what exactly does this authorize the legislature to do? What effect does this have on the first sentence? And is this a good way to handle it if you are trying to accomplish something, or are there better ways?

CHAIRMAN BENTLEY: Whom do you desire to yield to, Mrs. Cushman?

MRS. CUSHMAN: Either one. Mr. Brake, I guess.

MR. BRAKE: As long as the tax, Mrs. Cushman, is an ad valorem tax, one that is upon property on the basis of its value, this uniformity clause would govern. It would have to be taxed at the same rate regardless of its nature. The provision authorizes the legislature, however, to exempt property from ad valorem taxation and if deemed advisable to tax it in some other way. I think probably the outstanding example that we already have of that is the exemption of the automobile from ad valorem taxes, and instead the placing upon automobiles of a specific tax not based on value. That concept is carried forward in this provision.

MRS. CUSHMAN: What is the advantage of this?

MR. BRAKE: It may be very desirable not to tax all property on the basis of its value, and I think again that is the best example you can have. We avoid the necessity of assessing each automobile as to its value. We go by its weight. It makes the tax very easy to collect. There is no difficulty in the assessment. It is a much more workable thing than it would be to tax it upon the basis of its value. And there may be other property that ought to be handled in the same way. This authorizes the legislature to do it.

MRS. CUSHMAN: Would Mr. Austin agree with this as an interpretation?

CHAIRMAN BENTLEY: Mrs. Cushman yields to Mr. Austin.

MR. AUSTIN: I do agree with this interpretation, and I would add that the minority did not criticize or attempt to change the remainder of this paragraph.

MRS. CUSHMAN: Do you feel this is an adequate way of handling the problem that you are after, or is there something beyond it that you are after that this cannot help solve?

MR. AUSTIN: It is the opinion of the minority that exempting certain properties from the ad valorem taxation does not solve all of the problems. There are some properties that might well be taxed under ad valorem taxation but classified.

And it has been pointed out—I don't want to get into this lengthy discussion about intangibles again, but simply to point out—that if we could classify property, we could classify intangible property and tax it under the ad valorem taxation. But since we are desirous of taxing intangibles at a lower rate than other property, we have to exempt it and then tax it under the specific taxation. But we could apply a lower rate to intangibles if we could classify intangibles for ad valorem tax purposes.

MRS. CUSHMAN: I wanted to get your reaction to this. I asked several people at home about their reaction to this thing, and particularly people in the schools because in Wayne county, as you know, we are already taxing certain kinds of property above this 50 per cent level. I did discuss it with several people, and they felt that this was a matter that could well be of concern to the schools, because they thought it was going to harm the tax base and the income that the schools would be receiving under millage, and this is of considerable concern to me. But I did want to know whether this was an adequate way of handling the particular problems that you run into. It seems to me this is a case where uniformity of treatment does not necessarily mean equality of treatment—just as you get into with sex sometimes. (laughter)

MR. AUSTIN: I think your concern is well founded, Mrs. Cushman.

CHAIRMAN BENTLEY: Mrs. Cushman, did you desire to yield further time to the gentleman from Birmingham, Mr. Van Dusen, for further reply?

MRS. CUSHMAN: Fine.

MR. VAN DUSEN: Mr. Chairman and Mrs. Cushman, just to add a few examples to those cited by Mr. Brake, let's take oil and gas, which are beneath the surface of the ground. Nobody knows how much is there. The general ad valorem basis of taxation is not at all appropriate when you can't tell how much property is there, and therefore it is exempted under the present law from the general ad valorem tax and is subjected to a severance tax. The constitution has in the past and at present made special provision for the assessment of utility properties on a statewide basis, and this is a special ad valorem tax because it is impossible to properly value a railroad just taking the segment of its track that runs through one school district to the segment of its track that runs through another. This is another kind of special taxation which could be accomplished under the alternative means suggested by the majority proposal.

Mr. Austin said that it would be necessary to have the minority amendment in order to clarify intangibles. I think this is not true, because quite clearly the majority proposal limits the uniform rule to general ad valorem taxation of real property and tangible personal property, so that intangible property would be a special class under the majority proposal.

Let's just take a little bit of a look at what could be accomplished, however, under the minority amendment and the degree of chaotic classification into which you could get. The legislature could decide, for example, that drug store inventories would be assessed and taxed at one rate, hardware store inventories would be assessed and taxed at another rate, that the property of lawyers would be assessed and taxed at another rate and so on ad infinitum. Anyone who is familiar with the system of personal property tax classification adopted in Ohio is aware that the opportunity for classification is limitless and it lends itself to the problem of the squeakiest wheel before the legislature getting the grease in terms of who gets

the favorable classification and who doesn't. That is why uniformity is desirable.

CHAIRMAN BENTLEY: Mrs. Cushman, you still have the floor. Do you desire to yield further?

MRS. CUSHMAN: Yes.

CHAIRMAN BENTLEY: The Chair recognizes Mr. Austin.

MR. AUSTIN: I think Mr. Van Dusen will recognize or at least will appreciate the nature of my remarks and what my intent is. I think that what he is actually doing is making a mockery of what the legislature might do if given the authority to classify. I don't believe that the legislature would make such ridiculous classifications as he has suggested.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Ypsilanti, Mr. Lawrence.

MR. LAWRENCE: I don't know whether the question should be addressed to Mr. Austin or Mr. Van Dusen or Mr. Brake, but I have a different angle on this problem, one that I have been interested in for some time. I don't want to get into problems of local government. I am not getting into desirability of annexation, but I am interested in the tax phase of it, and I am wondering if either or both the majority report or the minority would cover the situation where a municipality seeks to enlarge its borders by annexation, take in perhaps vacant land, land that is being used as farm land, perhaps a gas station or similar business, but is unable to extend its services to the area taken in immediately. For instance, it may be unable even to render police or fire protection. It may not be able to extend its water or sewer lines.

Under our present system a great deal of hardship has been caused to some people who even have been annexed unwillingly, because they were unable to prevent it. They have received no immediate benefit, and in some instances for several years found their taxes not multiplied once or twice, but as high, in some instances I know, as 5 times, and the local authorities were claiming that there was nothing they could do about it because it was necessary that that property be taxed on a uniform basis, and since it was within the city, all property within the city had to be treated the same.

I have seen different municipalities—that is, the township and cities within adjoining townships—get into very bitter disputes, fights. I have seen people get out to work against, say, the legitimate expansion of a municipality's borders if it involved their property, particularly because of the fact that they were getting no benefit whatever for their purposes from the annexation, who would, if they could, have some relief in this respect: in other words, be assessed as though they were still in the township until such time as development caught up with them or municipal improvements and services could be rendered.

Now, our cities apparently in various areas are growing. It is my understanding that in California—perhaps Mr. Ostrow may know about this—they can have a different rate of taxation where property does not receive the same benefit, we will say, that downtown or the area immediately surrounding downtown receives. The advantage to the municipality, of course, is that it enables the municipality to control the development. It enables it by zoning, by planning to arrange for the orderly development, the proper use of the property for everybody's benefit if something of this nature can be done.

As I say, I don't want to get into this matter of annexation. That is not my intent. What I am wondering is if either the majority report or the minority report enable a distinction to be made of this nature to help out the situation I speak of.

CHAIRMAN BENTLEY: Whom do you desire to yield to, Mr. Lawrence, for an answer?

MR. LAWRENCE: It doesn't make a bit of difference.

CHAIRMAN BENTLEY: Well, you have the floor.

MR. LAWRENCE: All right, Mr. Austin.

MR. AUSTIN: I will answer first. I am sure Mr. Van Dusen will want to comment also. Mr. Chairman, Mr. Lawrence, I think you have made a very eloquent plea for the minority amendment. (laughter) Incidentally, California is one of my favorite subjects on the matter of taxation. It just happens that California has a number of the provisions that

we are objecting to here in Michigan, and California, incidentally, is booming economically.

As to classification, I would say that classification is the answer to the very questions that you raised. Classification would permit orderly development. And I might add that there is a certain amount of classification that is done now which has been—well, I will put it this way: which has been admitted by many of the assessors and supervisors who testified before our committee, but the inference was that these are handled more or less by administration. In other words, there is some leeway that—well, let's say that it is exercised by local administrators on subjects of this kind. But what we are seeking to prevent is that kind of indiscriminate administration. What we would like to do is to put the matter squarely up to the legislature to work this problem out and to provide the types of classifications that are necessary so that it will become a matter of law.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Birmingham.

MR. VANDUSEN: Mr. Chairman, Mr. Lawrence, I think the answer to the problem which you have posed—and it is a very real problem—lies not in classification but in good assessment. Now, you suggest that here is property which does not have utilities, which does not have roads, which is not enjoying municipal service. Quite obviously it doesn't have the same value that property has which does have roads, sewers and other municipal services. The problem which you raise can and should be handled under a uniform system of taxation by assessing it at its proper value in relation to other properties which do enjoy the services which you describe.

Now, let's pose the other side of the coin, because this is something which the committee did consider very carefully. Let's suppose that classification is possible and that the legislature, or whatever other authority to whom the classification responsibility is given, determines that it does want to classify vacant and undeveloped land and have it assessed and taxed at a lower rate than developed land. This simply offers a tax subsidy to the land speculator because he is in a position then to simply hang on to his property which is enjoying a lower assessment and a lower tax rate until such time as he is surrounded by the utilities which you have described. His property is actually far more valuable than any assessment which it has under the system of classification and, in effect, all of the other taxpayers are simply subsidizing the land speculator.

MR. LAWRENCE: Mr. Van Dusen, I would like to ask you this question: is it better to have that land speculator stay outside of the city where the city has no control over him and the city gets none of the tax, and keep the land as farm land or vacant land, or is it better to have him within the city? In other words, until his property has increased in value, until those services are available so he can develop it, is there any harm done in taxing at a lower rate?

MR. VANDUSEN: Mr. Chairman, I think, Mr. Lawrence, the answer is that if he is going to have his property fairly assessed, he isn't going to object to annexation. He is only going to object to annexation if the taxing authority is going to assess him as though he had municipal services when in fact he doesn't.

I don't want to protract this, Mr. Chairman, because I think the subject of annexation is one which has been dealt with in local government and will be at length.

MR. HATCH: Point of order, Mr. Chairman. I thought that Mr. Austin this morning agreed to an amendment which would exclude real estate from the minority report.

CHAIRMAN BENTLEY: Does the gentleman desire to respond to the point of order?

MR. AUSTIN: Yes, Mr. Chairman. Mr. Hatch, we did not agree to an amendment. There was a suggestion made that perhaps an amendment ought to be made, but we did not agree to an amendment.

MR. HATCH: I thought you stated that you would consent to such an amendment and you weren't concerned with land.

MR. AUSTIN: Well, I might say this: that we would rather get a decision on the present amendment before we get into any other amendments.

CHAIRMAN BENTLEY: Does the gentleman from Ypsilanti still desire the floor?

MR. LAWRENCE: Yes, I again would like to ask Mr. Van Dusen, if the majority report maintains the status quo, then I am afraid that the matter of assessment is not the answer. I shall give you one specific example. Outside of Belleville there was a farm. It continued to be used as a farm, and the city of Belleville wanted it. The owner was willing to bring that land in the city on one condition, that as long as it remained farm land until they got their sewage problems straightened out along the Huron river, that he would use it as a farm and it would be taxed as such. The city — I attended the meeting — agreed to that. The city in good faith agreed to that, they were so desirous for the property. But once he was in, they were told down at the Wayne county building by somebody, some assessor, some equalization group or something else, that they couldn't fulfill the agreement they made between themselves and keep it as farm land, and the man's taxes were raised 5 times as much with absolutely no benefit.

Now, all I am interested in knowing is, does either of these 2 plans allow that sort of thing? I want to know how to vote.

CHAIRMAN BENTLEY: Whom do you yield to, Mr. Lawrence?

MR. LAWRENCE: Mr. Van Dusen.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Birmingham.

MR. VAN DUSEN: I would suggest, Mr. Lawrence, that the problem which you pose is one which probably deserved some more careful investigation prior to the annexation. But we gave this a lot of consideration in the committee. If the property which you have described was fairly assessed at its land value, then under the majority proposal what you have described would take place. If it was not fairly assessed, if the value which the city ascribed to it was not correct, then he would be also protected under the majority proposal.

But the majority proposal, I repeat, is one which would not permit the subsidization of a land use not related to the real value of the property. If the property has greater value, then it should be assessed at that value.

MR. LAWRENCE: I wonder if I may yield to Mr. Everett.

CHAIRMAN BENTLEY: You may yield to whomever you wish, Mr. Lawrence.

MR. EVERETT: Thank you, Mr. Lawrence. I would like to speak on the same point, because it seems to me Mr. Van Dusen's answer is not a complete one.

In many suburban areas, the land values, particularly where they are improved, are greater than they are in the city, but it is the tax rate itself which has prevented annexation in many of these cases, the people recognizing that they are not, in the immediate future, going to receive the same services which those in the established community now receive. They may eventually and probably will eventually, but not immediately. So the mere difference in assessments or assessing standards does not solve the problem. For that reason it seems to me there is considerable value to the minority report amendment.

I think there are, however, parts of it which would make it impossible for many of us to vote for it. Mr. Austin himself has indicated because of its relationship with the last paragraph that it would permit a graduated income tax. Now, there are some of us who are caught in the middle here. We are not going to vote for a graduated income tax. In fact, we are going to vote against it. But we certainly don't feel that it has any relationship with this first sentence which the minority has submitted a separate amendment to.

MR. AUSTIN: Mr. Chairman.

CHAIRMAN BENTLEY: Mr. Lawrence, you still have the floor. Do you desire to yield to Mr. Austin?

MR. LAWRENCE: Yes.

MR. AUSTIN: Mr. Chairman, I am wondering if they would yield to an amendment which will put this matter squarely up to the delegation as to the subject at hand and to

get this other problem of the income tax out of the present minority report amendment?

CHAIRMAN BENTLEY: Mr. Lawrence, do you desire to yield to Mr. Austin for the purpose of his offering an amendment to his amendment at this time?

MR. LAWRENCE: Yes.

MR. AUSTIN: Will the secretary read my amendment?

SECRETARY CHASE: Mr. Austin has offered an amendment to the minority amendment:

1. Amend the amendment after "ad valorem" by striking out "and other" and after "classes of" by striking out "persons or"; so that the language will then read, "The legislature may by law authorize or impose ad valorem taxes which shall be uniform within the classes of property to which they are applied."

CHAIRMAN BENTLEY: Mr. Lawrence, do you desire to yield further to Mr. Austin for the purpose of explaining his amendment?

MR. LAWRENCE: Yes, I do.

MR. AUSTIN: I believe the amendment is self explanatory. I would also like to apologize for not having seen to it that the delegates had copies of this amendment on the type of paper that we normally furnish to them with line numbers so they could make the changes on their copies. And I might ask, Mr. Secretary, will the delegates in the future be furnished copies of these minority reports where they can make the corrections?

CHAIRMAN BENTLEY: The secretary will respond.

SECRETARY CHASE: The secretary has been puzzled about this situation, Mr. Austin, because of the fact that these minority reports are printed in full in the journal, and in order to save some printing expense, we have resorted to the printing of only 200 copies of minority reports. Now, I have referred this matter to Mr. DeVries for the committee on administration to consider, and what their answer is going to be, I have no knowledge as yet, but we will try our best to dovetail these amendments into the amendments that you have in the journal so we hope you can follow it that way. That is the reason that I read your amendment in the form that I did.

MR. AUSTIN: Thank you, Mr. Secretary. I don't want to confuse the discussion with that subject matter, but I thought we ought to at least raise the point at this time.

I think the amendment is clear. We are simply attempting at this time to remove any reference at all to other taxes so that we have before us only the matter of classification of property, and I don't think that I will take any more of the time of the delegates to elaborate.

CHAIRMAN BENTLEY: The gentleman from Ypsilanti still retains the floor.

MR. LAWRENCE: I merely was unable to get the amendment. I wondered if you could help me, Mr. Chase.

SECRETARY CHASE: Thank you, Mr. Lawrence. After "ad valorem" strike out "and other", and after "classes of" strike out "persons or".

MR. LAWRENCE: Unfortunately I have the journal. Is that in the first paragraph?

SECRETARY CHASE: After "ad valorem" strike out "and other" and after "classes of" strike out "persons or"; so that the language will then read, "The legislature may by law authorize or impose ad valorem taxes which shall be uniform within the classes of property to which they are applied."

CHAIRMAN BENTLEY: Mr. Lawrence, do you yield the floor?

MR. LAWRENCE: Yes, thank you, Mr. Chairman.

CHAIRMAN BENTLEY: The question is on Mr. Austin's amendment to the minority amendment. Does anybody desire to speak on the Austin amendment? Mr. Ford, do you desire to speak on the amendment to the amendment?

MR. FORD: I just want to ask a question.

CHAIRMAN BENTLEY: You are recognized.

MR. FORD: As I understand it, the words "of persons or" are the words that were stricken, Dick?

SECRETARY CHASE: Just "persons or", so that it reads "classes of property."

MR. FORD: Is it the intent of this amendment, Mr. Austin, that we would be clearly talking about the ability of

local governments by legislative mandate or by legislative permission to classify real property as well as the others?

MR. AUSTIN: Mr. Chairman, Mr. Ford, under this amended language, the local government or, let us say, the legislature—it is the legislature that will provide the laws for doing this—will be able to classify real as well as personal property.

CHAIRMAN BENTLEY: Is there further discussion on the amendment to the amendment? If not, the Chair will put the question. All those in favor of the amendment to the amendment will respond by saying aye. Those opposed?

The amendment to the amendment is adopted.

The Chair is now ready to continue with recognition. He would like to remind the committee that only now are we beginning to recognize persons who requested recognition since 2:00 o'clock. All previous speakers had been recognized during the morning session. The Chair recognizes the gentleman from Onondaga, Mr. Davis.

MR. DAVIS: Mr. Chairman, members of the committee, as a member of the committee on finance and taxation I rise at this time to support the committee proposal and to oppose the minority amendment. I would like to say, however, that I do have respect for the minority amendment. We have discussed this matter at great length in our committee, and I believe that most of the committee was open minded about this particular matter. I don't think that there has been a point which we have heard on the floor but what was considered or something in relation to it within the committee. So I am briefly going to attempt to list a few of the reasons why I like the committee report.

In the first place, I think the property taxes have about gone their limit, particularly in some areas of this state. I think that this particular committee proposal places a ceiling which is realistic and which is meaningful. Second, it offers a means of legal recourse where there is inequity of assessment which is cheaper and easier to attain. Example: a store owner with inventory evaluated at 70 per cent on his personal property, beside the residence which is assessed at 35 per cent of cash value, under our present constitution has had difficulty in gaining any kind of a realistic or cheap solution to his problem. Fifty per cent cash value gives him something now which at least is a tangible means of bringing this back down where it should be.

This committee proposal does provide for exemptions or for alternative means of taxation. I am not going to comment upon this because I think Mr. Van Dusen has covered this in an excellent fashion. The minority amendment would likewise allow this, so this is not a particular difference.

The committee proposal does place some limits on the legislature for broad scale classification, and I think that this is desirable. We have heard exceptions, and I am glad that some of our city friends have recognized that in the case of assessing farm property next to subdivision developments, there is inequity there, and we have considered this in detail and we were quite familiar with this problem. I might say that there are other exceptions, and there are long lists of them. One of them, for example, industrial property which is not being used, has no source of income. And we could go ahead with a long list of these.

We have considered many of these exceptions, and I will not attempt at this time to list more. I would like to say that the uniformity clause as such is of a constitutional nature. It is found in our present constitution and it is present in many other state constitutions. After considering all of the exceptions, the majority opinion of the committee was that we were willing to go along with equality, and we think that this particular committee proposal does give some concrete means of attaining equality in taxation for ad valorem purposes in the state of Michigan. In fact, I think that it provides an orderly, a realistic and a workable approach for ad valorem taxation, and I would like to urge support of the committee proposal and defeat of the minority amendment.

CHAIRMAN BENTLEY: Acting on the earlier suggestion of President Nisbet, the Chair will declare an informal recess for 10 minutes. The committee will reconvene at 3:35.

The gentleman from Fennville, Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I simply want to raise my objection on the record to this procedure. I am opposed to the committee of the whole recessing for 10 minutes, because if it can recess for 10 minutes, it can recess for 10 hours.

The purpose of the committee of the whole is to keep working, and if the committee of the whole desires a recess, the committee of the whole's only proper action is to rise. Please keep in mind that the convention, acting in committee of the whole, acts, so long as it is in the committee of the whole, only by a greater number of votes for or against anything, and it also acts at the same time that the convention is supposed to be acting. Now, if we fall into what I deem to be the extremely poor parliamentary practice of permitting the committee of the whole to recess for 10 or 15 minutes, in parliamentary law it could completely delay the work of this convention.

I understand that the president stated that this is the course of action that would be taken. I want to object to it strenuously, and I move that the committee do now rise.

CHAIRMAN BENTLEY: The question is on the motion that the committee do now rise. All those in favor will say aye. Those opposed?

The ayes have it. The committee rises.

A DELEGATE: Division.

CHAIRMAN BENTLEY: A division is demanded. Not sufficient support. The committee has risen.

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

PRESIDENT NISBET: Mr. Bentley.

MR. BENTLEY: Mr. President, the committee of the whole has had under consideration certain items on the general orders calendar of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 51** and has come to no final resolution thereon.

PRESIDENT NISBET: The Chair recognizes Mr. Elliott.

MR. A. G. ELLIOTT: I move we recess for 10 minutes.

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

We are recessed for 10 minutes.

[Whereupon, at 3:28 o'clock p.m., the convention recessed; and, at 3:38 o'clock p.m., reconvened.]

The convention will please come to order.

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

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, I move the convention resolve itself into committee of the whole for further consideration of the items on the **general orders** calendar.

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

The motion prevails. Mr. Bentley.

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

CHAIRMAN BENTLEY: The committee will be in order. We will continue the discussion of **Committee Proposal 51**. The Chair recognizes the gentleman from Kalamazoo, Mr. Allen.

MR. ALLEN: Mr. Chairman and members of the committee, when I asked to be recognized early this afternoon, I did not know Mr. Lawrence was going to bring up the point which he raised and also that the matter of real estate was still left in the proposed amendment, so rather than talking on what I had first intended to speak on in support of the majority report, let me talk to Mr. Lawrence's problem. I think that at first it may appear that there is a great advantage in an old

city being able to entice or invite or encourage a new area to come in by having a differential tax base; for example, being able to say to this new area coming in, "We will only tax you at 7 mills and the rest of the city will be at 12" or "you at 10 and the rest at 14," and I suppose you might think that coming from a city, we would be very anxious to do this sort of a thing and make annexation easier. But I would like to tell you that it is the experience of the cities and my own feeling that it doesn't work this way. First, I don't think that it is quite moral or right to try and lure people in by promising something which may not work out and, secondly, I think it invites some problems which first don't meet the eye.

Let's take my own city, for example. We have done some substantial annexation and we still have the same millage rate for the whole city. We have to, under the present constitution and we would have to under the majority report. And, as I say, I favor the majority report on this phase of it. Now, we put in \$6 million worth of storm and sanitary sewers. These were specially assessed to the extent of 1½ million, and 4½ million of the cost was shared by the general fund. Who pays out of the general fund? Who pays into the general fund? Well, it is the people of the whole city, and the people of the whole city are largely the old city, the city as it existed before any annexation. If you go in for a graduated tax rate as is the suggestion or the question of Mr. Lawrence, what you do is make the burden even greater on the old residents of the city. Now, it has been burden enough to have, in my city, for example, \$4½ million paid out of the general fund, most of which comes from the old city, but what you would do by applying this split tax rate or this classification would be to add onto this burden. I think that this is going to cause as many problems as you think it will solve. Possibly it would turn these annexation votes right around where the outlying area would want to come in and the inside area will say, "No, we don't want you in because you are going to get a different tax rate".

Now, in addition to the problem that is raised in this connection, you have another problem that comes if you have a different classification on taxes. I don't think any city is uniformly street lighted, any city is uniformly street paved, any city has uniformly storm sewers and uniformly sanitary sewers. We still find that we have better street lighting in parts of the city than in the rest. Now, look at the problem that is going to come to your local council if you start having this classification. An area of the city is going to say, "Well, our street lights aren't as good. We want 1 mill less in taxes." Or a small section of the city will say, "Well, we only have a storm sewer and we don't have the sanitary sewer. We want a reduction of 1 mill on taxes." Or another part of the city is going to say, "You still haven't paved with curb and gutter our street, and we want a reduction on taxes." And somebody else says, "You have some parks in your part of the city and we don't over here, and we want a reduction." And I think you invite for your local council all kinds of problems when you invite a nonuniformity rule, and therefore I think on this phase of the report, the majority is right. We forget that the uniformity rule on real estate and personal property just didn't happen overnight. We have had a lot of experience with it. And I don't think we should lightly discard it.

I know it has been criticized, but the principal criticism on our taxation has been on personal property, and it has been because personal property has been assessed at higher rates than real estate—not because of the classification but the entire rate, and this can be corrected under the majority report. This is the evil, not the evil in classification, primarily. And, therefore, speaking to this point, I very strongly think that we would make a mistake and invite a lot of trouble that we don't first think about if we have separate classification for real and personal property.

CHAIRMAN BENTLEY: Does the gentleman from Kalamazoo desire to yield to the gentleman from Detroit, Mr. Faxon, who I believe is seeking recognition?

MR. ALLEN: Mr. Faxon saw me in the hall and said he has to catch a plane and asked if I would yield. I do.

CHAIRMAN BENTLEY: The gentleman yields.

MR. FAXON: Thank you, Mr. Allen. Mr. Chairman, members of the committee, I want to get my words in now before I leave because there are at least certain fundamental issues that have been raised that I would like to get my ideas expressed upon, and that is with regard to what we are doing on this whole tax article.

Now, I heard earlier this morning a reference made to the effect that historical constitutions always included some sort of prohibition upon the legislature with regard to what taxes it may or may not impose. And I like nothing better than to look back into the early charters and early colonial constitutions to see whether this in fact is the case or not.

And as I listen to the debate progress, I hear more and more reference to the evils that may ensue from a legislature that would haphazardly consider the provisions that are being advanced by the Austin amendments, and in this case we see all these evils and we are against it, and they are sort of setting up a strawman in the legislature that is going to go haywire in terms of how it is going to write tax law.

Now, I didn't view the task of constitutional convention delegates as getting into the specifics of tax law, and I would hope that we would find some confidence in the legislative process to insure that these people who are elected and representative of the people of the state—and are elected periodically for that purpose—would be able to write the tax law.

Just to look back into the Pennsylvania Charter of 1696, and, I just read this one sentence because I think this reflects the kind of feeling that people then had in legislative assemblies:

... that the representatives of the free men who, met in assembly, shall have power to prepare and propose to the governor and council all such bills as they or the major part of them shall at any time see needful to be passed into law.

A general statement, nothing dealing with taxation as early as 1696.

We first get into tax reference in the Pennsylvania Constitution of 1776, and I just want to state this one paragraph of the whole charter, the whole constitution. They had just one paragraph dealing with taxation. And I would ask you to compare the historical past to the present with regard to this one paragraph. It says in section 41:

No public tax, custom or contribution shall be imposed upon or paid by the people of this state except by a law for that purpose, and before any law be made for raising it, the purposes for which any tax is to be raised ought to appear clearly to the legislature to be of more service to the community than the money would be if not collected.

And here is the part I like particularly:

... which, being well observed, taxes can never be burdens.

Now, this is a feeling expressed in the confidence of the legislature to use some wisdom with regard to the imposition of taxes, and that is all that constitution said.

And I looked into the constitutions of New York and New Jersey and North Carolina, and none of them have any reference to different types of taxation which may or may not be done. There was a general feeling of trust in the legislature for making these determinations.

And so I wish we could in some degree revert to some confidence in writing a constitution and not imposing restrictions and to permit flexibility, and what we get into when we don't is the problem of writing tax legislation here on the floor. So let me then in conclusion give my support, whatever that may be worth, to the Austin amendment, and in doing so, I ask that you consider the historic past and the tradition that has been set in early constitutions with permitting no restrictions upon the legislature in terms of tax legislation. Thank you, Mr. Chairman and the committee.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Gladwin, Mr. Hubbs.

MR. HUBBS: Mr. Chairman, members of the committee, I was quite interested a few moments ago in the words that Mr. Ostrow spoke with regard to personal property taxes, and I think Joe Snyder said some of the same things, and at that time I felt moved to come forward and express my views with

regard to personal property taxes. I am going to say this about them: I think that something has got to be done about them or small business is not going to exist in this country very long.

However, with reference to the point under discussion, uniformity of taxes, I am in complete support of the committee report. However, I don't think that the committee has done an adequate job of making it possible for the burden at the local level through personal property taxes to be somewhat eased, and I would support the committee report and ask you to vote against the minority amendment. You will hear from me later on personal property taxes again. Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Marshall, Mr. Hatch.

MR. HATCH: Mr. Chairman, like Mr. Hubbs, I sought recognition shortly after Mr. Ostrow and Mr. Snyder had spoken. If you will recall, I believe it was Mr. Ostrow who referred to the situation of the man owning the hardware store with \$20,000 worth of inventory and the real estate broker who had maybe \$800 worth of inventory; that the hardware dealer would pay a substantial personal property tax, whereas the real estate broker would not, and that both men were making substantially the same amount of money. Now, Mr. Ostrow's solution to this problem is to classify personal property.

Well, first of all, you have to look at the evil he was describing. Assuming there was an evil there present, the evil, to my mind, is not that they were both paying taxes based on personal property which was assessed at its fair market value or the same percentage of fair market value; the evils, if any, lie in the fact that both businessmen were making approximately the same amount of money and yet were paying different taxes.

Now, I submit that the solution to the evil is not in classification. Assume further now that there was another hardware store farther down the street that also had \$20,000 worth of inventory but which was not making any net income whatsoever. Now if we assume that there were a classification, this of hardware inventories or some such classification, this wouldn't correct the evil which Mr. Ostrow was referring to, because you still would have a man making a considerable amount of money who was paying a given tax and a man making no money paying the same tax. So I submit that classification is not the solution to the evil referred to by Mr. Ostrow.

I think the committee report leaves it open to either exempt or to take certain property out and tax other incidents of that property, which may more directly correct the evil that Mr. Ostrow was referring to. If there is to be a tax on personal property, I think that a machine in one plant should be taxed the same as a machine in another plant, or a desk in a real estate office should be taxed the same as a desk in a hardware concern. So I support the committee report and oppose the minority amendment.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from Stanton, Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, in a problem of this kind there are always 2 approaches that one, I think, should make. One is his philosophy of government, his principles, the thing he believes in in connection with a particular problem. The other is the matter of public acceptance. I think we would be very remiss if we didn't recognize that that matter of public acceptance is a part of every problem that comes before us.

I work with tax people from one end of this state to the other the year around when I am not in the convention. I don't know of anything in the tax field that would cause more of a shock to the people of this state than the word to go out from here that we have abandoned the uniformity clause. They have tied to that for so many years. We recognize it has never been 100 per cent effective, but we have depended on it, they have depended on it. They think it is something they can tie to, and the reaction is going to be bad if they find we have abandoned it. So much for that.

Now I would like to say something else to you. We have after today, 10 more days before we reach the February 21

deadline that we have set for ourselves. I went over the list last night of the things that I knew about that I think are going to be highly controversial on the floor of this convention and before the committee of the whole. There may be many more that I don't know about. And of course there are always what one may speak of as little things that he thinks are not controversial that turn out to be extremely controversial. I found 15 issues, 14 besides this one, that I thought would take as much time as this one will take, and we have 10 days after today—and it is now 4:00 o'clock today—in which to handle it.

It seems to me we have 1 of 2 choices: either we are going to subject ourselves to an arbitrary limitation of the time we can use, or we are going to have to discipline ourselves and when we have said what is necessary to say, to stop talking and go to voting. I am not saying that with any wish that there should be a lack of scrutiny on anything that comes out of the finance and taxation committee. We are not only willing to have you do it but we want you to do it. If there are bugs, we would rather you would find them here than to have somebody find them afterwards, which would be much more embarrassing. But if we can't discipline ourselves enough to avoid any unnecessary debate, we are either going to break our deadline or we are going to subject ourselves to something that is very arbitrary, and I am sure we always wish to avoid that. This is just one amendment on this thing. We know there are 2 more. I don't know how many others. We are up to 4:00 o'clock on one amendment. Let's say just what has got to be said and nothing more. (applause)

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Musekgon, Mr. Hanna.

MR. W. F. HANNA: I don't want to get shot by the chairman, but I will be as brief as I can, Mr. Brake. Mr. Austin said that by allowing the legislature to classify, we would eliminate the discretion to ignore the law as to the valuation placed on various classes of property which is now prevalent throughout the state. Business, labor and management all agree that in the Minnesota tax study, where classification ran rampant, this discretion was abused far more than in any state having a uniformity rule, and advocated uniformity.

Secondly, he implied, I think, that in California by classification of assessments, you solve a problem of farm land lying within an incorporated city having a different tax rate. I submit that an examination of the California practice will show that they have cities with multiple tax rates and what they call service districts where they assess for services, and the solution to the problem raised by Mr. Lawrence can be solved by 2 words in the home rule city act, which provides for assessment for public improvements, in adding the words thereafter "and for public services." This is the practice followed in townships, and this solves the problem very neatly. I don't think that we should mislead those people who have farms on the borders of cities that the state legislature under the minority amendment would pass a law which says that farm land subject to a 10 mill city tax will be assessed at 25 per cent of cash value, and that farm land that is subject to a 1 mill township tax will be assessed at 50 per cent of cash value.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Ledge, Mr. Doty.

MR. DEAN DOTY: Mr. Chairman, I would just like to point out that Michigan has one of the finest state tax commissions in the country, and this tax commission in the last 10 to 15 years has done a tremendous job in improving and correcting inequities that existed within this state. I think that this is something we should all think about. Remember that a lot of work has been done in this area, and I would urge you to support the majority report.

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

MR. EVERETT: Mr. Chairman, fellow delegates, Mr. Brake makes a very tough man to follow, and I certainly shall try to be brief. I would suggest that we are overlooking one point. The uniformity clause in the present constitution is actually an illusion. Tax rates and tax assessments are not uniform in this state and have not been for a long time. Now, whether the first sentence of the majority or the minority report is accepted,

the balance of it would certainly tighten up this matter, and rightfully so.

In my own community in Battle Creek in 1957 we had a study made of the city and an adjoining township, and to quote very briefly from it, these outside experts found that the tax rate in the city on real property was based on 55 per cent of the 1953 replacement cost, while in the township it was 50 per cent of the 1941 replacement cost. Now, I need hardly remind anybody that the cost of building between 1941 and 1953 went up tremendously.

The assessment rate in the city was 80 per cent of cost on inventory; in the township, half of cost on inventory. In the city, 40 per cent of the cost on machinery and equipment; in the township, 25 per cent of the cost on machinery and equipment. In other words, there has been no uniformity.

To me there are certainly dangers in the minority amendment, but I think there is an overwhelming advantage to it. It does open the door to some effort to classify city services to break down the barriers which now prevent uniform and legitimate annexation. I am not saying this would be done easily. Mr. Allen has pointed out some real obstacles to it, and it would be a very difficult problem for the legislature to come up with classifications which would answer it, but at least we are leaving the door open so that in the future, as there is more experimentation in this field, more study of it and more knowledge of it, the opportunity is then there for classification in this area. I think if proper classification standards could be found and used, it would tend to solve much of the problem of annexation, which did not faze Kalamazoo but does faze most of our cities.

CHAIRMAN BENTLEY: Does the gentleman desire to yield to the gentleman from Detroit, Mr. Austin?

MR. EVERETT: I would.

MR. AUSTIN: Thank you. I believe that most of what is to be said on this subject has been said, and I feel also that perhaps the delegates are ready to vote. I would just like to make this one last comment. The minority report or amendment does not suggest that classifications be made; only that the legislature have the right to do so if in its wisdom it feels that it ought to be done.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Rapids, Mr. Goebel.

MR. GOEBEL: Mr. Chairman, I shall try to be brief, upon orders from our chairman. I think our chairman, Mr. Brake, and Mr. Van Dusen have done a very fine job in presenting the committee's proposal. I want to say that I agree with Mr. Allen in his remarks because I do feel, as he does, that in trying to correct some of the problems that are in this area, we may be causing a lot of headaches in the future.

Now, this is a constitutional limitation, as it should be, but the committee feels—and I certainly feel—that there is adequate flexibility within the limitations of the committee proposal to allow the legislature to come up with a good tax program, and it is my feeling, and I think the feeling of the majority on the committee, that if we raise this limitation or are more generous with it, open it up beyond what the committee has offered, that we will open up a field of taxation which, at least in my judgment, will allow discrimination. The committee report, in my judgment at least, offers the needed flexibility to the legislature, but yet stops short of a situation where taxes could be discriminatory. I oppose the Austin amendment and I am for the committee proposal. Thank you, Mr. Chairman.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Nord.

MR. NORD: Mr. Chairman, it appears that anyone who speaks after Mr. Brake does so at the risk of his displeasure (laughter) and I am going to risk his displeasure. I know I had lunch with him yesterday, and maybe I never will be able to again, (laughter) but I believe, nevertheless, that it isn't quite right of Mr. Brake or any other person to stand up repeatedly over and over again various different times and state that now that he is standing up, everyone else should sit down. I don't believe that I need to follow that dictum.

Now, several red herrings have been dragged across this issue repeatedly, and that is the reason I take the floor again, to get rid of the red herrings and find out what the real issue is. Mr. Brake states that we are going to shock a great many people if we abandon the uniformity clause. I have no statistics on the matter. He may be right and he may be wrong. I can't tell. But let's keep this in mind, even if we were to wipe out the uniformity clause entirely—which is not going to be done—it would not be just that that we do. We are adding something at the same time as we are taking something away. We are adding something that is bigger and better than the uniformity clause, and that is equal protection of the laws clause. We didn't have that in this constitution before. That is why we had the uniformity clause. Now we have the equal protection of the laws clause and now there is no need for the uniformity clause. Let's not get nervous that the people will be excited about that. When we explain to them that we have the same provision as the United States constitution—and the United States constitution has not been something undermining our security, as far as I know—people will not get nervous.

The other red herring that has been dragged across this debate is the question of classification, whether we are for classification or against classification. I can say for my part, without any fear of contradiction, that I haven't got the slightest idea whether I am for or against it. I don't know anything about it, and I am not being required to vote on that. We are not in the position to be determining now whether there should be a classification scheme. We are not being asked to write a tax program now that will be good for the state for the next 50 years. If we were asked to do so, we should refuse to do so. We don't know the answers to all the questions that will arise. We don't know how to solve the problems of these different people who have been mentioned on the floor in the last few minutes: little business, farmers, hardware store owners, real estate brokers and others. We are not going to solve all of their problems here. We are not going to solve any of their problems here. The only question is, are we going to set up a framework of government, or are we going to set up a framework of government which could possibly succeed in governing?

As Mr. Austin has pointed out, the issue is not classification. The issue only is whether we want the legislature to determine whether, at any time in the next 50 years, it needs some sort of classification. It seems to me, therefore, that the answer is simply this, the problem not being one of shocking the people by removing something without adding something better; the problem not being one of discrimination because of the equal protection of the laws clause; the problem not being one of classification, it boils down to one thing: flexibility.

Do we want to trust the legislature with anything at all or do we want to be so certain that we know everything that can ever happen in tax law that we are going to settle it all here and now? I believe we should give the legislature some flexibility when we can, and I believe here we can. The minority amendment ought to be adopted.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Niles, Mr. Boothby.

MR. BOOTHBY: Mr. Chairman, ladies and gentlemen, I will be brief because I am in proximity to the person who made the recent statement concerning briefness. I think that this whole issue of whether the constitution should be flexible in this regard or whether it should impose a limitation actually boils down to a very interesting point, and that is this: Senator Hutchinson has time and time again indicated that a constitution should be a limitation on power, and when we come into the area of legislative power, I would assume that it should be a limitation on the power of the legislature in certain areas, and that area, I think, is the power of being partial. And I believe that when you inject the question of flexibility, you are actually saying that the legislature should be so flexible that it can be partial. And I think that is what we must be very careful in considering at this point, whether we should allow the legislature to be so flexible that it can be partial to any group or faction in society.

I think it is very interesting to note a statement that has

been made by Mr. Madison in the Federalist Papers number 10, and that statement is this:

The apportionment of taxes on the various descriptions of property is an act which seems to require the most exact impartiality; yet there is perhaps no legislative act in which greater opportunity and temptation are given to a predominant party to trample on the rules of justice.

Every shilling with which they overburden the inferior number is a shilling saved to their own pockets.

I think that the whole question before us at the present time is, are we going to let the legislature be so flexible that it can be partial in the determination of taxes and the requirement that certain individuals pay a greater amount of taxes than other people? I think this is an important question that should be considered.

CHAIRMAN BENTLEY: Is the gentleman from Taylor, Mr. Ford, in the chamber? If not, the Chair will recognize the gentleman from Howell, Mr. Sharpe.

MR. SHARPE: Mr. Chairman, I agree with Mr. Brake. I don't think there is anything else that could be said that hasn't been said, except I feel a little bit bewildered, like the young fellow that went hunting ducks with his father, his father being a sharpshooter and never missing his mark. They sat all day in the boat, and along towards evening along came a couple of mallard ducks. The father raised up with his double barreled shotgun. Bang! Bang! Nothing happened. The ducks flew away. He turned around to the boy and he said, "Son, you have just witnessed something you will probably never witness again in your life." "What's that, Pop?" "Two dead ducks just flying away!" (laughter)

CHAIRMAN BENTLEY: The vote now occurs on the amendment. Mr. Bonisteel, the gentleman from Ann Arbor, is recognized.

MR. BONISTEEL: Mr. Chairman and fellow delegates, before we vote on this proposition, I think it might be well if we took a good look at the language that is being proposed here by the committee report. I want to read it. It will only take me about 2 minutes. I read it over many times since this debate started.

[The first 2 sentences of Committee Proposal 51 were read by Mr. Bonisteel. For text, see above, page 853.]

This is the part now that I want you to listen to:

[The balance of Committee Proposal 51 was read by Mr. Bonisteel. For text, see above, page 853.]

Now, it is my contention that the language that I read and which I said I wanted you to pay particular attention to is sufficiently broad enough to give this legislature leeway to do the thing that ought to be done, and certainly I don't want to stand in the way of broad discretionary powers, which I believe it has within a workable framework here, to permit it to do the thing that ought to be done by statute, and I think it has this power in the language which I have read to you.

In addition to that, I don't think it is a function of this convention to anticipate what interpretation the supreme court or the courts of this state are going to make upon such legislation as might be submitted for the people of this state by the legislature, and I am going to support the report of the committee.

CHAIRMAN BENTLEY: Does the gentleman from Taylor, Mr. Ford, desire recognition at this time, now that he has returned to the chamber? (laughter)

MR. FORD: I was out there dictating a series of minority reports. (laughter) I just wanted to rise to support the Austin amendment as now amended at the suggestion of Mr. Everett, and I am looking over here at Don Lawrence. This is one of the few times we have an opportunity to agree in the last 3 months, but I think that Don brought up a point that is very important to many of us, and although Mr. Van Dusen indicated that he didn't think that we should consider the local government aspect of this, I believe that many people in the state have considered it.

I represent a suburban area, as does Mr. McCauley and as do both of the Browns and some of the others here who are vitally concerned with what the future might be for us if the legislature was given the authority—and I don't believe that anything in history indicates that this would be flagrantly abused—to create some form of property classification. Now, Glenn Allen has indicated that the way this might apply would be for the residents of one part of a newly annexed territory to be assessed and have a millage of 5 mills and the rest of the city have 10 mills. This isn't what we would contemplate at all. What we would envision is the possibility of classifying, for example, acreage as farm property, and then reclassifying it at the time that it is subdivided and becomes the pawn in the game of real estate speculation that Mr. Van Dusen mentioned and at the time when the city services are extended to it, to the end that we can get out of the bind that some of the large urban townships are in now. We have areas that should and would become cities if it were not for the fact that a substantial part of their total area is occupied by people who are not receiving city services, don't anticipate them in the near future, and resist very violently being incorporated into and as a part of an ultimate city development at a time when they are still farming the land.

I might point out that I don't feel at all uncomfortable about being on the side of the farm bureau in this, but they have given it some consideration, and I would just like to read a short statement here that is contained in the 1962 Policies of the Farm Bureau:

One of the most serious threats confronting farm owners in some sections of the state is that of becoming rather helplessly involved in annexation procedures which would place their property within the farflung municipal limits of some overly ambitious city or village.

I would like to say parenthetically I think they might well have added, "becoming incorporated into a new city."

Many farmers are finding their property tax burdens almost confiscatory as a result of being taken into an enlarged school district with an expanding budget. A high tax rate, multiplied by a large assessment of a sizable and well equipped farm, frequently results in a school tax burden which siphons off most of the receipts of the farming enterprise. The situation becomes doubly serious when such a farm is absorbed into a city or village that has to pay added taxes for various municipal services which it may not receive and doesn't desire or doesn't need. Obviously, many cities and villages are continuing to grow and from time to time should absorb property being used for industrial, business and residential purposes. However, the steadfast position of the farm bureaus in matters of this sort is that of opposition to the inclusion of land which is being used solely for agricultural purposes in such annexation projects.

Now, this last sentence is the key to it. One of the things that is standing in the way of the orderly development of the suburban areas of the state of Michigan is the resistance that people in agriculture—understandably, if you look at it from this point of view—put up when we talk in terms of incorporating a township into a home rule city or annexing a sizable area, a sensibly sized area, into the city. The ultimate result of this is very frequently, and all too frequently in Wayne county, we have taken a township and in order to acquire this very desirable home rule status, cut it off from the rest of the township, and we end up with a lot of small cities, small in size and small in ultimate population and small in ultimate future, because there is nothing left in the way of planning. There is nothing left to plan for the future in the way of vacant land.

It is my opinion that if we were in a position down in Wayne county to establish a system of land classification so that the assessed valuation formula, not the millage formula but the assessed valuation formula, could be distinct and different as to the use to which the property is put, that you would very rapidly see the township pass out of existence as a unit of local government down there. And I am not saying that this is altogether a desirable end in and of itself, but for

the many problems we have in suburban Wayne county and many other suburbs, I think, around the state, this would be another step in the direction of solving the problem. It would be another way to permit the legislature to help us if it were so inclined.

At the present time there is no sense going to it with such a plan regardless of how well it may be conceived and, as has been said before, we are not asking in this amendment to put a self executing clause in here that says that property will be classified. All we are doing is asking that you permit the legislature at some time in the future when someone does devise a fair and equitable system, however limited it may be, to be in a position to do it and do it at a time when it is very badly needed, not after the next constitutional convention, we hope, 50 years from now.

CHAIRMAN BENTLEY: The question is on the Austin minority amendment as amended. Those in favor of the amendment as amended will respond by voting aye. Those opposed, nay.

A DELEGATE: Division.

CHAIRMAN BENTLEY: Division is called for. Is the demand for division supported? It is. The secretary will read the amendment as amended.

SECRETARY CHASE: The minority amendment as now proposed by Mr. Austin and others is as follows:

1. Amend page 1, line 8, after "Sec. a.", by striking out the first sentence of section a and inserting in lieu thereof the following: "The legislature may by law authorize or impose ad valorem taxes which shall be uniform within the classes of property to which they are applied."

CHAIRMAN BENTLEY: Those in favor of the minority amendment as read will respond by voting aye. Those opposed by nay.

SECRETARY CHASE: Has everyone voted? The machine is locked and the totals will be recorded.

CHAIRMAN BENTLEY: Mr. Stopczynski.

MR. STOPCZYNSKI: I would like to get the Chair's vote.

CHAIRMAN BENTLEY: The Chair does not vote in committee of the whole, but he will advise the gentleman that if he was sitting on the floor, he would vote no.

SECRETARY CHASE: On the adoption of the minority amendment proposed by Mr. Austin and others, the yeas are 50; the nays are 78.

CHAIRMAN BENTLEY: The amendment, as amended, is not adopted.

Does Mr. Austin desire to offer his next amendment to this paragraph at this time? He is recognized for this purpose.

MR. AUSTIN: Thank you, Mr. Chairman. As I stated earlier, there are 3 minority amendments to the committee proposal. The second deals with the question of the 50 per cent of cash value standard. I feel again that in order to save time and to get the issue squarely before you, it is probably best that I read the report which is very succinctly stated and does present the arguments as clearly as we can do it, and I would like to refer you to page 522 of the journal, and I am wondering if I can ask the secretary to read the amendment.

CHAIRMAN BENTLEY: Without objection, it will be read.

SECRETARY CHASE: Pursuant to minority report B of Messrs. Austin, Binkowski, Pellow, Stopczynski, Walker and Young,

Mr. Austin offers the following amendment:

1. Amend page 1, line 13, after "assessed" by striking out the comma and "which shall not, after January 1, 1966, exceed 50 per cent."

MR. AUSTIN: Thank you, Mr. Secretary. The effect of this amendment is to delete reference to the 50 per cent limitation on assessments.

[The supporting reasons for minority report B to Committee Proposal 51 were read by Mr. Austin. For text, see above, page 855.]

It is well to point out that wherein there has been in some of our discussion some advocacy for retaining limitations on

the legislature, these limitations were expressed by the people in referendums. I submit that this 50 per cent of cash value level does not have the dignity of that type of mandate, and I would move that the minority amendment, which seeks to amend the majority report, be adopted.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from Stanton, Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen of the committee, it is always unfortunate when you have either in the constitution or in the statutes a law that nobody follows, and I submit to you that at the present time it is absolutely impracticable for our present constitutional limitation to be reached. Were we to go from the 50 per cent at which the state board of equalization is now trying to hold us to the 100 per cent, doubling the tax on property, any advantage in owning property would be gone and we would have on our hands a tax strike of proportions immediately, to say nothing about a loss of property from those who couldn't pay.

As Mr. Austin has pointed out, the aim of the state tax commission and the state board of equalization in recent years has been definitely to fix the state equalized value at 50 per cent, not recognizing the 100 per cent that the constitution calls for.

In a few communities — and it is only a few communities — there has been a problem more difficult, more unfortunate than this, in that they have kept their assessments above the 50 per cent limit as to tangible personal property and below 50 per cent on real estate. Anyone who has felt himself aggrieved in his assessment and who has chosen to try it in court rather than an appeal to the state tax commission, complains that his property is 70 per cent or 80 per cent or 90 per cent, is met immediately by the fact that the law is being complied with. "You are not above 100 per cent. You have got no standing here."

We are trying to put this at a place where it can be followed and where the state tax commission and the board of equalization have been trying to follow it for some time. The fear that putting it at 50 per cent will mean you will go down to 25 per cent, I think, is fully answered by the need for the money which will keep it at 50 per cent. Recognizing that the communities that have been offending by assessing at 70 per cent or even more on tangible personal property can't immediately adjust themselves, this allows 5 years for that adjustment. And, as has been stated earlier in the day, in Wayne county they have been on that program in advance. They have been on a program to reduce, and 3 more years is supposed to get it down to the 50 per cent where it belongs.

I talked to one person who is an assessor of a rather sizable city of this state. Feeling that this was coming, his city didn't wait, but immediately took steps to get that personal property assessment down to where it was, and told us about 2 new industries already coming into the city, and he attributed it in large part to the fact that they had changed their tax program.

We think that what we are suggesting here is sound, that it is practical and that it will be entirely acceptable to the people in many parts of the state. The people have been insisting on this for some years without getting it. We think it is time they had it.

CHAIRMAN BENTLEY: The question occurs on the second Austin amendment, being minority report B. Those in favor will respond by saying aye. Those opposed?

The amendment is not adopted.

There being no additional amendments to the first paragraph, Mr. Austin is recognized for the purpose of offering his third minority report amendment, which is to the second paragraph of the committee proposal.

MR. AUSTIN: The third amendment offered by the minority is found on page 520 of the journal.

CHAIRMAN BENTLEY: Mr. Austin, if there is no objection, the secretary will read your amendment.

SECRETARY CHASE: Pursuant to minority report A of Messrs. Austin, Binkowski, Pellow, Stopczynski, Walker, Young and Ostrow,

Mr. Austin offers the following amendment:

1. Amend page 1 by striking out all of lines 21 and 22; and by striking out all of page 2.

CHAIRMAN BENTLEY: The gentleman is recognized in support of his amendment.

MR. AUSTIN: Mr. Chairman, before I proceed, I should mention that there is an amendment to the committee proposal which the committee had asked me to make on the floor of this committee, and I think it is probably appropriate that I make that amendment so that we will be talking about the proposal as the committee intends us to consider it, and I will tell you what that amendment is.

CHAIRMAN BENTLEY: Without objection, Mr. Austin, your amendment will be temporarily withdrawn, and you are recognized for the purpose of offering the committee amendment.

MR. AUSTIN: On line 21, after the word "class" insert "or classes".

CHAIRMAN BENTLEY: The secretary will read the proposed amendment.

SECRETARY CHASE: Mr. Austin, on behalf of the committee on finance and taxation, offers the following amendment:

1. Amend page 1, line 21, after "class" by inserting "or classes"; so that the language will then read, "Every other tax shall be uniform upon the class or classes on which it operates."

CHAIRMAN BENTLEY: Does the gentleman desire to speak on behalf of the committee amendment?

MR. AUSTIN: Yes, Mr. Chairman. It was discovered by the committee that by omitting the words "classes" we may be making 1 or 2 of our present statutes unconstitutional. I refer particularly to the inheritance tax and the chain store tax, both of which have a graduated rate structure, and there have been rulings to the effect that because we now refer to class or classes, these statutes are constitutional under the present language. And what the committee has done with the new language is simply to revise it or, let us say, to improve on the language without changing the substance. But it was necessary to include these 2 words to retain the substance of the present language in the constitution.

CHAIRMAN BENTLEY: The question is on the committee amendment. Those in favor will respond by saying aye. Those opposed?

The committee amendment is adopted.

The gentleman is now recognized in support of his minority amendment.

[For text of amendment, see above.]

MR. AUSTIN: I am now reading from page 520. I want to make sure I am getting this right:

[The supporting reasons for minority report A to Committee Proposal 51, with the exception of the table, were read by Mr. Austin. For text, see above, page 854.]

If the same opportunity is not available to the state of Michigan to graduate its rate structure, it is quite possible that Michigan taxpayers will find themselves contributing disproportionately to federal projects in other states.

I would like to review this chart with you. This is not a simple subject, and I hope that I will have your close attention as I attempt to analyze this chart. What we have provided here is a chart which shows the comparative income tax on the last \$10,000 of a taxable income of \$200,000. Now, \$200,000 incomes are not unusual in the state of Michigan. We use the figure, though, so that no delegate would feel that we were picking on him. We also use the figure because at the higher income levels, the inference that we are making is very clear.

If we assume 2 different tax rates and that the state tax is deductible in arriving at the federal liability, the chart which follows will show what the relative impact will be of the state income tax and the federal tax on the last \$10,000 of this \$200,000 income. We are talking about the income above

\$190,000 for a \$200,000 income taxpayer. The first column assumes 1 per cent flat rate and the second column assumes a graduated rate structure up to 10 per cent, a maximum of 10 per cent.

First, let's look at the federal income tax liability on this \$10,000. The federal income tax on the last \$10,000 of income would be \$8,900. The rate of the bracket is 89 per cent. In other words, a taxpayer earning \$200,000 pays \$8,900 to the federal government from the last \$10,000 of his income. If we were to levy a flat 1 per cent income tax at the state level, he would pay to the state \$100. If we graduated the rate structure up to 10 per cent, he would pay the state \$1,000. The amount borne by the federal government of the \$100 would be \$89, and the amount borne by the taxpayer would be \$11.

If we graduated up to 10 per cent, the amount borne by the federal government would be \$890, and the amount the taxpayer would actually pay out of his pocket would be \$110.

Now, let's see how that \$1,000 would be divided up. The amount going to the federal government under a 1 per cent rate would be \$8,811. The state would get \$100 and the taxpayer would have left \$1,089. If we graduated the rate up to 10 per cent, the federal government would get \$8,010. The amount going to the state would be \$1,000. And the amount that the taxpayer would have left would be \$990.

It was important to make this analysis because we here in our state government can do nothing about the steeply graduated federal rate structure. It is something we live with. And wherein we may have some opposition at the present moment to enacting a graduated income tax, it is quite conceivable that our legislature in the near future, in using the income tax for substantial tax reform, may find it advisable to graduate the rate structure in order to see that Michigan gets its fair share from income taxation. It is the view of the minority that the hands of the legislature should not be tied in this regard. I move that the minority amendment be adopted.

CHAIRMAN BENTLEY: Mr. Van Dusen.

MR. VANDUSEN: Mr. Chairman, members of the committee, a majority of the committee obviously believes that this limitation, the prohibition against a graduated income tax, is one of the kinds of limitation which the people should impose in a constitution. Some of the reasons for the belief of the majority of the committee are expressed more eloquently than I can express them by an eminent historian, Professor C. Northcote Parkinson. Some of you may be familiar with Professor Parkinson. He is the author of "Parkinson's law." He is known perhaps most recently as a writer of humorous literature, but he is and has been for many years a noted historian. He holds a Ph.D. from the University of London. He has lectured on history all over the world, including some of our major American universities. One of his laws with which you may be familiar and of which we have seen recent demonstration is that the time devoted to debate in any parliamentary body varies inversely with the importance of the subject under discussion. (laughter) And I would suggest that perhaps our debate, operating on the basis of that law, might be quite brief on this topic because this is an important one.

Here are a few of the things that Professor Parkinson calls to our attention in his volume on Parkinson's Second Law — and Parkinson's Second Law, incidentally, is that expenditure rises to meet income, something with which we are all personally familiar, and familiar in terms of its applications in government — but Professor Parkinson discusses the history of the graduated income tax at some length in this volume, and he goes back to one of the early experiments of our federal government with the graduated income tax in 1862, and comments as follows — and this is brief:

The importance of the act of 1862 lies in its differentiated incidence. In this act we see the beginning of disproportional or progressive taxation. Until that date, the congressman who voted for a tax did so in the knowledge that it would fall as heavily on himself as upon others, a safeguard some might think important, but that principle went in 1862.

The significance of this was emphasized at about this

time by an economist, Mr. J. R. McColloch. He said tax graduation was an evil not to be paltered with, and the savages described by Montesquieu who, to get at the fruit, cut down the tree, are about as good financiers as the advocates of this sort of taxes. Wherever they are introduced, security is necessarily at an end.

Even if taxes on income or otherwise were most unexceptional, the adoption of the principle of graduation would make them among the very worst that could be devised. The moment you abandon, in the framing of such taxes, the cardinal principle of exacting from all individuals the same proportion of their income or their property, you are at sea without rudder or compass and there is no amount of injustice and folly you may not commit.

Just a few additional brief comments. Professor Parkinson says:

Taxes can be grouped, as we have seen, into 2 broad categories: those we impose on ourselves and those we inflict upon other people. Taxes in the first category, examples of which in history are extremely rare, are self limiting. They may rise in time of emergency, but once the crisis is passed, they should tend to fall. The United States in their earlier days offered an example of taxation falling within this category.

On the other hand, most taxes clearly come within the category of burdens imposed by some people upon others. The taxes decreed by ancient monarchies were all of this type, and so are the graduated taxes of today at all levels above the average, being voted indirectly at least by those to whom the heaviest rates will not apply.

One final comment:

The taxes inflicted by some people upon others will inevitably rise as expenditure rises, and expenditure will rise in accordance with Parkinson's second law. Their only limit is the point where the victim refuses to pay, and to that point they will rise by the principle which governs their growth.

That is nearly all I will have to say on the subject of a graduated income tax on behalf of the committee.

Just one final comment. I can think of nothing which we could do in this convention more beneficial to the general impression of Michigan as a state in which to do business than to prohibit the imposition of a graduated income tax.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Hodges.

MR. HODGES: Mr. Chairman, I am somewhat confused. I was going to get up following Mr. Austin's remarks and state that I felt for the first time I was going to get up and speak for something that was going to pass, and I was going to figure that I had Mr. Van Dusen along with me on this proposition because, as I review the situation in the committee of taxation so far, I remember back when we were talking about keeping a 1946 base for the sales tax, at that time Mr. Van Dusen got up and said, "We don't go for this because, you know, if we got this, there may be a question whether we could take the sales tax off food and drugs." So I thought, gee, that was a very good idea. So I submitted that proposal, fully expecting to have some support on it from the majority party and from Mr. Van Dusen.

And much to my amazement, he came up and talked in terms of flexibility and said that we can't restrict or tie the hands of the legislature; that it has got to be free so it can decide on taxes. So even that made a pretty good argument, I thought, and it may be a good thing to have some flexibility, although I thought that this perhaps was some place that we could give a break, finally, to those in the lower income groups.

And then when we came to this, I thought, by gosh, now we can really go on the flexibility kick and knock this thing out, this outrageous limitation on the hands of the legislature. And yet, what do we find? The great proponents of flexibility coming in here and trying to nail down their philosophy in this constitutional convention. I can only say this: not only are they nailing their philosophy in; they are nailing the coffin on this constitution.

I believe that their clients and my constituents would disagree on this particular thing, but I would remind them of this, when it comes to voting on this constitution, there are more of the kind of constituents I represent than the clients that they are representing at this convention.

I urge you, I implore you, for those that we felt we couldn't take advantage of or give a little break to because we didn't want to tie the hands of the legislature, I now stand where Mr. Van Dusen stood yesterday, pleading and crying for flexibility. I hope I am not a voice in the wilderness and I hope we will vote for the minority amendment.

CHAIRMAN BENTLEY: The Chair recognizes the lady from Grand Rapids, Mrs. Judd.

MRS. JUDD: I imagine perhaps the best defense that can be made for this restriction is Parkinson's second law, but if we must resort to a humorist to defend the proposal, I am going to resort to Hutchinson's first law, which is that everything we put in the constitution is a restriction on the legislature, and it appears that everything in this whole tax program that has come before us is a restriction.

I am very much concerned about the future of Michigan. We are writing a constitution, we hope, for the next 50 years. We have been greatly impressed with the tremendous growing debt. We have been appalled at the problem of the pension funds. We heard a great deal about the problems of higher education. And so I am wondering what we are doing to solve those problems through the financial point of view. All that we have done so far is to put a ceiling on property tax assessment, is to restrict the kinds of taxes that can be put on property by the uniformity clause; and we have kept in the restrictions on the sales tax, given more than half of it away to local governments, and now we say the state cannot levy a graduated income tax.

I am not particularly in favor of a graduated income tax at this time, but I think that we are imposing a very dangerous restriction on the next 2 generations with the growing populations that we certainly must expect. So before I could vote against the amendment and in favor of forbidding an income tax, I would like to hear what positive proposals there are in the tax committee for solving our state's financial problems.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Binkowski.

MR. BINKOWSKI: I would yield the floor to Mr. Brake or to Mr. Van Dusen if they wish to answer Mrs. Judd's remarks because I think they are very pertinent and very germane.

CHAIRMAN BENTLEY: The gentleman from Detroit yields to the gentleman from Birmingham.

MR. VAN DUSEN: Mr. Chairman, I am not prepared to replot the ground which we have plowed at some length this week. However, as one who favored the flexibility involved in the elimination of earmarking, as one who favored a general loosening of the uniformity clause embodied in the committee proposal which we have just adopted, as one who strongly supported the committee proposal with respect to the sales tax when the earmarking failed, which does greatly increase the legislature's flexibility in dealing with that problem, I feel that, in general, the recommendations of the committee on finance and taxation, while not exactly what I would have liked, do give to the legislature considerably greater freedom and flexibility in dealing with the state's financial problems now and in the future.

I think it is important that we bear in mind a distinction between limitations on the legislature's power to tax and limitations on the legislature's power to appropriate. In the case of limitations on the power to tax, we are imposing upon those who are elected to represent us the guidelines which we as citizens believe are necessary to protect us as a people, both majority and minority, from excessive, confiscatory, discriminatory or unreasonable taxation.

Each of the limitations which have been prescribed up until now are limitations which go back as far as 100 years in our history. The prohibition against the graduated income tax with which we are now dealing is one which has not been in our constitution up until now largely because the evil of the gradu-

ated income tax has not been as apparent until the last 20 years. The progressivity, the steep graduation of our federal system has taught us that this is a problem, and if there is to be some balance in our total tax structure—all of us, after all, are federal taxpayers as well as state taxpayers—this is a limitation which we as citizens of this state may reasonably impose upon our legislature.

CHAIRMAN BENTLEY: The gentleman from Detroit, Mr. Binkowski, has the floor.

MR. BINKOWSKI: In other words, Mrs. Judd, you don't have an answer to your question. I don't think there is any.

However, continuing on, we talked a great deal about flexibility, and we have been provided with a great number of studies by various groups in the hopes and expectations that we would come out with the best possible document. I think that this committee proposal, beyond any question, limits the legislature to a tax program for the next 50 or 75 years which will definitely be regressive in nature.

Someone has labeled this type of language as tax legislation. Well, this sentence, in my mind, is not simply a question of tax legislation; I say it is class legislation. This language of the prohibition of a graduated income tax will only help those people in the upper middle income groups. Furthermore, I think that, beyond any question, the prohibition of a graduated income tax—if you are going to generalize, I have to use a generalization—is nothing more than a scheme to insure that the rich get richer and the poor, poorer.

Now, Mr. Van Dusen brought out the question of the progressivity of the federal tax and it was this argument which I hoped that we would not have to get involved with, because the basic issue as I see it is a question of whether you want to tie the hands of the legislature or not. The merits of a progressive tax are not before us.

Now, last Friday—that is, February 2, 1962—in the Detroit Free Press there appeared an article by Sylvia Porter. I had it reproduced for each and every one of the delegates so that they could see and read and get the facts for themselves. These are not my opinions, but you have an opinion, based upon a very comprehensive study, that the rich people in this country have not lost anything through a federal progressive tax system. And there it is. And if you want to get involved with it, you can argue with the author, not me.

However, this provision not only extends on a state level but, importantly, to us in the Detroit area. Based upon a very exhaustive, very comprehensive, long study of our tax problems, our tax study committee concluded that first we should seek relief on a state level. It appears very doubtful that we will get relief on the state level. Their secondary conclusion was to have then a piggyback income tax. With this provision in our state constitution, the city of Detroit could not enact the type of program that our people thought was best. Now, you talk about local self government, and I say this provision is interfering with our local self government in Detroit.

Again, I am not advocating a graduated income tax. I don't know what the facts are. We haven't had any experience here with the flat rate income tax. But we can look to the over 30 states which do have a graduated income tax structure, and I think that one of the best arguments, if we are going to get involved in the merits, is that if you had a state graduated income tax, you deduct this from your federal income tax, and therefore this is a system and a method for retaining more of the money here in Michigan than sending it to Washington.

Now, the Michigan tax study staff papers are very comprehensive and some of you, I know, have read them, and I am not going to read everything, but I think that at page 505 they talk about the personal income tax, they talk about the mutual deductibility in terms of federal income tax, and I think you should be aware of these facts. I will quote:

The Minnesota income tax as applied to a single taxpayer may be used as an illustration.

Incidentally, this is one of states that taxed the highest. That is, their graduated income tax goes up to, I think, about 11 per cent.

In this state, although the statutory rate in the first bracket of taxable income is 1.1 per cent, mutual deductibility lowers the rate, in terms of net cost to the taxpayer, to .71 per cent. At the level of \$20,000 of taxable income, the marginal statutory rate is 11 per cent, but mutual deductibility reduces the marginal effective rate to 2.2 per cent. In other words, a person with a taxable income of \$20,000 in terms of a state income tax only pays 2.2 per cent. Quoting further:

As income rises, the additional tax rate which is attributable to the state tax rate continues to fall and is only $\frac{1}{10}$ of 1 per cent at \$200,000.

Now, I don't know if you need any more arguments with respect to this.

And again I come back to the basic argument: we are supposed to be writing a document which will allow flexibility in the future. By inserting this sentence, you not only tie the hands of local government but you tie the hands of the legislature. I think that this should be considered very seriously.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from St. Clair Shores, Mr. Snyder.

MR. SNYDER: Thank you very much, Mr. Chairman. I sincerely feel that the delegates here, following the analysis made by Mr. Austin and his minority group, couldn't have helped but be impressed by the effort, work and toil that has gone into the study. This was not a capricious approach to a very serious and fundamental problem; it was an attempt made by sincere people to resolve a problem confronted by us so that we could rise up to our responsibilities. And what was most important in my mind was the effort made by the committee to salvage for the people of this state with their formula a large part of the moneys that was already being lost. I feel that this effort to recoup this money was most admirable.

And I say, without malice, that it would be sheer folly for me to compare this report with the best seller that we are having on the market and one that was used in rebuttal to this very carefully planned report, and I can't see any justification when you counter the report made by Mr. Austin and his committee with the fact that it is a law that the expenditures rise to meet income. I haven't had the opportunity as yet to find time to read this best seller because I felt that my time must be devoted more to the mundane problems that we have facing us at the convention.

Certainly I feel that we have a responsibility here to our citizens, and I say that if you review the report of Mr. Austin, you will find that here is an opportunity to recoup, to bring back to the people at little or relatively low cost some of the money that is going out. We have a responsibility here, and I am only thankful that we have this report, and I have reasons to believe that this report was instituted much prior to this convention. I feel that the work and efforts that have gone into this report represents the cross thinking of many groups and many citizens in many communities in this state. And the report that we have today was a sort of a general feeling that all of the people or many of the people in the state of Michigan felt that this was what they should be having to resolve their problem, and I sincerely hope that you weigh the 2 volumes, Mr. Parkinson's and Mr. Austin's, and you evaluate which you feel would best resolve the problems that we have before us.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Bay City, Mr. Higgs.

MR. HIGGS: Mr. Chairman, and fellow delegates, I share some of the concern of Delegate Snyder as to that which is lost and I feel the need to salvage some of the money going to Washington. Delegate Binkowski also expressed this as a method of retaining part of the money which would be going to the federal government. And I note also that Delegate Austin in setting forth this schedule at page 522 refers to "amount borne by the federal government." It would seem as though, in reading these statistics, that a big part of this tax will be paid by the federal government. I think this is a form of self delusion. I would assume that if we graduated beyond 10 per cent, to perhaps 80 or 90 per cent, we could retain even more of that money; and the more money we keep back from Washington

I would assume would result in a lowering of the federal budget, if we want to carry the self delusion even further.

Now, I do believe that this report is the result of careful study, but I would be more impressed to have the figures compared if we did not make an assumption of graduation to 10 per cent, because that is not in issue—it is wide open as to what the graduation could be—but assume a graduation equal to the federal government and then see where we are.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Hillsdale, Mr. Prettie.

MR. PRETTIE: Mr. Higgs has touched somewhat upon the matter with which I wish to deal. I am impressed with Mr. Austin's very fine report, and particularly, in paragraph 5, his statement that this does not, in effect, need to be a soak the rich or pamper the poor provision. I find, however, that the only example given is on an assumed taxable income of \$200,000. My question to Mr. Austin is whether you have made similar comparisons—which I have tried to do here very rapidly—on incomes of, say, \$10,000, \$20,000 or \$30,000 with which I think we would find many more of our constituents concerned.

CHAIRMAN BENTLEY: Does the gentleman yield to Mr. Austin for a reply?

MR. PRETTIE: I do.

MR. AUSTIN: Mr. Chairman, Mr. Prettie, there are such statistics available, and I did not want to presume upon the time of the committee to quote a lot of statistics. I gave these 2 examples because I thought they expressed the principle that is involved. However, I have plenty of statistics, and I will be prepared in the morning to quote more of them.

MR. PRETTIE: I am wondering, Mr. Austin, if you could accommodate the delegates by making a table similar to the one appearing on pages 521 and 522 of our journal with reference to taxable incomes of, let us say, \$10,000, \$20,000 or \$30,000, which would assume a maximum tax rate in the \$20,000 figure of about 30 per cent, and I come up with the fact that the taxpayer is going to have approximately \$810 less of keepable income. The federal government's reduction in tax by reason of the mutual deductibility would in that instance be approximately \$70.

As an accountant, I would greatly appreciate your verifying my figures and giving us examples on, say, \$10,000, \$20,000 or \$30,000, which I think is more realistic than the hard case that makes bad law that you have cited to us.

MR. AUSTIN: I am not sure that I know exactly what assumptions Mr. Prettie would like us to make in preparing the specific charts that he is interested in. Are you interested in the total liability or just the marginal income?

MR. PRETTIE: Parallel tables to those on pages 521 and 522 with only this change in assumption: a taxable income of \$10,000, \$20,000 and \$30,000 instead of \$200,000.

MR. AUSTIN: Very well.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, Mr. Brake.

MR. BRAKE: Mr. Chairman, I move the committee rise.

CHAIRMAN BENTLEY: The motion is on the question of whether the committee shall rise. All those in favor will respond by saying aye. Those opposed, no.

The motion prevails and the committee will rise.

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

PRESIDENT NISBET: The Chair recognizes Mr. Bentley.

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

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 51**, has adopted 2 committee amendments thereto, and has come to no final resolution thereon. This completes the report of the committee of the whole.

PRESIDENT NISBET: Announcements.

SECRETARY CHASE: Following the morning session of Thursday, tomorrow, the subcommittee on eminent domain will meet in room G to hear representatives of the highway department. Mr. Paul Mahinske, chairman.

A meeting of the style and drafting committee announced again, 8:00 o'clock tonight in room K.

The committee on local government meeting, which was scheduled immediately after the session today, has been postponed until 1:00 o'clock tomorrow.

We have the following requests for leaves of absence: pursuant to doctor's orders, Mr. Thomson requests leave of absence from Thursday's and Friday's session; Mr. Faxon and Mrs. Conklin request leave from the sessions of Thursday and Friday. They have been invited to judge the ice sculpture contest at the Michigan College of Mining and Technology at the Houghton winter carnival; Mr. Goebel wishes to be excused from the session of tomorrow to attend to University of Michigan business in Ann Arbor; and Judge Leibrand asks to be excused from the convention sessions of Thursday and Friday because of a trial case which has been on call for 4 months and found impossible to adjourn the case to April 2.

PRESIDENT NISBET: Without objection, they will be excused.

Mr. Brake.

MR. BRAKE: Mr. President, the finance and taxation committee will meet tomorrow morning at 9:00 o'clock.

PRESIDENT NISBET: Mr. DeVries.

MR. DEVRIES: Mr. President, there will be a meeting of the president's select committee to cooperate with the legislature on postconstitutional convention business immediately following the session in the committee on administration room.

PRESIDENT NISBET: In reply to an inquiry, minority reports to committee reports appearing in last Thursday's journal now in the hands of research and drafting will be permitted to be filed as soon as prepared. Minority reports to committee reports appearing in last Monday's journal which are in the hands of research and drafting by the end of the session Thursday will be filed as soon as prepared.

The Chair recognizes Mr. Hatch.

MR. HATCH: Mr. President, I move we adjourn.

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

The motion prevails. We are adjourned until 9:30 tomorrow morning.

[Whereupon, at 5:30 o'clock p.m., the convention adjourned until 9:30 o'clock a.m., Thursday, February 8, 1962.]

SEVENTY-FIFTH DAY

Thursday, February 8, 1962, 9:30 o'clock a.m.

PROCEEDINGS

PRESIDENT NISBET: The convention will please come to order.

This morning for our invocation we are very happy to have the pastor of Delegate Durst's church, Reverend Doctor Oliver Collins of the First Methodist Church of Adrian. Will you please rise.

REVEREND COLLINS: Shall we pray. Our Father, we thank Thee for the gifts of heart and mind and spirit which have fashioned this state of Michigan which is our home; for the wisdom of the fathers who founded this society conceived in liberty and dedicated to the proposition that all men are created equal; for the strong and good men and women who established this state upon the enduring foundations of religion. We bless Thee for the skill of scientist, inventor, engineer, and all others who have helped to unlock the resources of this state to the end that all might benefit from nature's bounty; for the tenacity of educators who have trained and trusted the common man in order that a government of the people, by the people, for the people might be securely established and extended.

May we never forget the heritage that has come down to us, bought by the blood, toil and tears of others than our own. May we strive valiantly to keep the democracy which has been bequeathed to us by those who dreamed dreams of liberty and freedom and gave the last full measure of devotion to pass the torch on to our hands. For the great character which has been woven into the fabric of this state, blessed be Thy Name. For the great leaders in crucial times who have been lifted up to direct our paths, we thank Thee.

Help us today with clear vision to see the heroes and heroines who have had reverence for life and for Thy Name as a name above every other name. Steady our hands as we grasp the lamp of righteousness today. Make dependable and wise our minds in this constitutional convention to do for the good of the citizens of today and tomorrow that which ought to be done. Free us from partisan politics so we may cross party lines to do that which is best for the people of this state, nation and world. May every delegate sit in the place of every other delegate and try to see the reform measures through the eyes of each other.

O Spirit of the living God, we surrender ourselves and our standards to Thee for cleansing and healing, for Thou art the strengthener and cleanser of all races. We are strong only as we are pure. Today may Thy morality and spirituality become the alternate beats of our own heart and work in our very depths so that we may be safe, serene and secure. May nothing make us inadequate or afraid, for we are possessed where it counts at the center of our being by Thyself.

In all our deliberations today and all other days take our littleness and ally it with Thy greatness, our insignificance and ally it with Thy significance, our love and ally it with Thy love; so whatever changes we shall make in the constitution may be for the greatest good of the greatest number. In His Name we pray together as Thy children. Amen.

PRESIDENT NISBET: The roll call will be taken by the secretary; those present, please vote aye.

SECRETARY CHASE: Have you all voted? The machine is locked and the attendance will be recorded.

Mr. President, a quorum of the convention is present.

Prior to the session today, Mr. Mahinske asked to be excused because he was not feeling well.

PRESIDENT NISBET: Without objection he will be excused.

SECRETARY CHASE: Absent with leave: Dr. Anspach, Mr. Barthwell, Mrs. Conklin, Mr. Faxon, Mr. Goebel, Mr.

Habermehl, Mr. Leibbrand, Mr. Mahinske, Mr. Romney and Mr. Thomson.

Absent without leave: Mr. Nord.

PRESIDENT NISBET: Without objection, Mr. Nord will be excused.

[During the proceedings, Messrs. Mahinske and Nord entered the chamber and took their seats.]

This camera on the podium will be taking a motion picture this morning for the documentary film of the convention. It will be here for the morning session only and will be the only direct, head on view of the convention that will be included in this film. This camera crew is from Wayne State University, and Wayne is cooperating with the University of Michigan and Michigan State in producing the documentary film. I hope we can have your indulgence for this morning's session in order to get this film for documentary purposes.

Reports of standing committees.

SECRETARY CHASE: No committee reports, Mr. President.

PRESIDENT NISBET: Select committees.

SECRETARY CHASE: None.

PRESIDENT NISBET: Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: Second reading of proposals.

SECRETARY CHASE: Nothing on that calendar.

PRESIDENT NISBET: Third reading.

SECRETARY CHASE: Nothing on that calendar.

PRESIDENT NISBET: Motions and resolutions.

SECRETARY CHASE: There are no resolutions on file.

PRESIDENT NISBET: Unfinished business.

SECRETARY CHASE: None.

PRESIDENT NISBET: Special orders.

SECRETARY CHASE: None.

PRESIDENT NISBET: General orders of the day. The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, I move the convention resolve itself into committee of the whole for the purpose of further consideration of items on the general orders calendar.

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

The motion prevails. Mr. Bentley.

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

CHAIRMAN BENTLEY: The committee will be in order. When the committee rose on yesterday, the pending business was **Committee Proposal 51** to which 2 amendments have been adopted. The business immediately before the committee was the amendment, pursuant to minority report A, by the gentleman from Detroit, Mr. Austin, and others to delete the second paragraph of that proposal.

For last previous action by the committee of the whole on Committee Proposal 51 see above, page 853.

The Chair recognizes the chairman of the committee, the gentleman from Stanton, Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen, before we start on the continuing debate on the amendments on 51, may I call your attention to the fact that you have on your desk a redraft of 56, which will be offered as a substitute for the 56 that you have in your books. The changes are

mostly just in language for clarity, but if you wish to look them over before we get to that item, which will be, I hope, not long, you will have them.

CHAIRMAN BENTLEY: At the time the committee rose on yesterday, the Chair had the following names of people who had requested recognition. Without objection, they will be recognized in this order: the gentleman from Marshall, Mr. Hatch; the gentleman from Grand Rapids, Mr. Martin; the gentleman from Detroit, Mr. Downs; the gentleman from Grand Rapids, Mr. Tubbs; the gentleman from Pontiac, Mr. King; the gentleman from Muskegon, Mr. Seyferth; the gentleman from Taylor, Mr. Marshall. Is the gentleman from Detroit seeking recognition at this time?

MR. AUSTIN: Yes, Mr. Chairman, for the purpose of offering a substitute amendment for the minority report amendment.

CHAIRMAN BENTLEY: The gentleman is recognized for that purpose.

MR. AUSTIN: Thank you. Will the secretary read the substitute amendment?

SECRETARY CHASE: Mr. Austin withdraws the previous amendment proposed by the minority report and in lieu thereof offers the following:

1. Amend page 1, line 22, after "operates," by striking out the balance of the line and line 1 on page 2. This leaves in the language, "Every other tax shall be uniform upon the class or classes on which it operates."

CHAIRMAN BENTLEY: Without objection, the pending minority report amendment will be withdrawn and the gentleman is recognized in support of his new amendment.

MR. AUSTIN: Mr. Chairman, the purpose of the change is to retain the first sentence which will permit classification or will permit uniformity within classes. What we are objecting to principally is a constitutional prohibition to the graduated income tax, and I think by retaining the first sentence we do not alienate anyone who feels that we ought to have a uniformity statement in the constitution but who might otherwise feel that we should not have a prohibition to a graduated income tax; and I move that the amendment be adopted.

CHAIRMAN BENTLEY: Without objection, the Chair will now proceed to recognize those members who requested recognition yesterday in the order just read. The discussion will be on the new Austin amendment. The gentleman from Marshall, Mr. Hatch.

MR. HATCH: Mr. Chairman, I sought recognition yesterday for the purpose of suggesting the amendment to Mr. Austin which he has introduced as a substitute.

CHAIRMAN BENTLEY: The gentleman from Grand Rapids, Mr. Martin, is recognized.

MR. MARTIN: Mr. Chairman, the debate yesterday proceeded on the theory that it is always going to be possible to pass some of this income tax which might be approved here in the state of Michigan on to the federal government. It seems to me that we are operating under a real delusion here because, as the various states increase their state income taxes—and this seems absolutely inevitable—the federal government is going to be increasingly pressed because this reduces its income tax take and sooner or later we probably will find that the deduction for state taxes or for state income tax is no longer available to favor those who have to pay a state income tax. For that reason, I think we delude ourselves if we think that this state income tax is in any way going to be in the long run paid or collected at the expense of the federal government. The federal government just does not act that way in the long run.

I only want to comment briefly on this. The only way in which we can consider the tax burden of the average citizen is to consider his total tax burden. You cannot know what his tax burden is by just considering what state taxes he pays—whether state income tax or otherwise—or what federal income tax he pays; you have to consider the total picture, and the federal income tax which is based upon ability to pay is already used to the maximum possible extent here in this country. Its graduated rates, of course, rise to something like 90 per cent in the top bracket, but

they rise very fast in the lower brackets and even in the lower brackets they start at 20 per cent. Now, we have to recognize that this type of graduation gives us in this country one of the most steeply graduated progressive taxes in the world today, and we have to consider that in considering this total tax burden. I think also we have to recognize that the expenses of state government are rising rapidly and will continue to rise in the future, and there is no reason to believe that ultimately state taxes may not be as heavy as the federal tax. If that is so and if the deduction for state taxes in the federal tax program is removed, we will have at far lower rates than we do today a completely confiscatory tax program, and this is the reason I introduced a proposal—and the committee has picked up the same idea—with respect to limitation on a prohibition on a graduated income tax here in Michigan.

I think we have to realize that this is a long range proposition—we are talking about the next 50 years. Taxes have a tendency to rise rapidly—and unfortunately that is true—and, if we have 2 graduated income taxes in the end here for people of this state to pay, and, this is the important thing, on neither of which are the rates fixed with any relation to the other tax, you can expect a level of taxation such as you have never dreamed would be possible here in this state. For that reason it seems to me not only desirable but completely equitable that we place such a prohibition in our state constitution, leaving the use of these highly progressive rates to the federal income tax system.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Downs.

MR. DOWNS: Mr. Chairman, fellow delegates, I wish to rise in favor of the Austin amendment and in opposition to the majority report of the committee. I believe that Delegate Austin did an outstanding job in going into the technical details of tax legislation. For that reason and the fact that I do not qualify as a technical expert, I shall not speak in that area but, rather, try to limit myself to the general subject matter.

With all due deference to the other speakers, I think some of us get a little tired of the threadworn discussion about the 90 per cent federal income tax bracket. I believe the Harvard University business magazine recently had an article showing that very often what people would normally think would be in the 90 per cent income tax bracket got over into the long range, long term tax benefit bracket.

What we really have here—and I hope that the delegates will realize what so far we are doing on the tax proposals when we refuse to take off in the constitution the tax on food and drugs in the sales tax on the theory that that was a legislative matter—and from a certain logic I think it can be argued that was a legislative matter—but then we come around and say that we should put a limitation on the legislature in relation to a graduated income tax, which is equally a legislative matter. I am very concerned that this will end up giving the impression of a double standard and that the convention is acting more on its fears.

I believe that Delegate Judd from Grand Rapids very appropriately raised the question yesterday about the positive aspects of this convention. I feel very strongly that she did hit the nail on the head and that we must come out with some positive aspects rather than just the negative ones.

I think in the general field of taxation, we must realize that this is our government. I hope we get some apportionment and get more representation in taxation, but the real solutions to these problems are by what we as voters do, and I just caution those who wish to put the state's financial system in an undue strait jacket and remind such delegates and the public that to the extent we put the state in a financial strait jacket and people have needs that are unmet, we will be forcing people to turn to the federal government to get these problems solved. The overwhelming majority of the American people, I believe, are basically pragmatic, are not too concerned whether something be done by the local, the

state, or the federal government so long as it gets done, and if we put provisions in this constitution that will from a financial viewpoint preclude people from solving their problems through local and state government, then we will be forcing people to turn to the federal government for those solutions.

I may not be quite as concerned as others are; I don't happen to fear the federal government, but I do think that there are real responsibilities that can best be met by local and state government, and I hope that we will not preclude the people through our local and state governments from meeting those financial responsibilities. Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Rapids, Mr. Tubbs.

MR. TUBBS: Mr. Chairman, I would like to rise to second what Mr. Downs has just said. I, too, think that Mrs. Judd gave the best speech on this taxation section yesterday that has been given.

I hope Mr. Hutchinson is still in the hall. I want to say that I do not subscribe to the Hutchinson law that was enunciated a long time ago by him and mentioned yesterday. A constitution is a grant of power. When you put limitations in it, you are telling the people to whom you grant the power that you don't trust them. Personally, I will trust the government, and I would like the well ventilated sentences of sections 2 and 4 of the present article X of the present constitution which, in direct language and without any frills and without any exceptions, grants to the legislature the power to raise money by taxes to run this government. I would like to see that in our new constitution.

Then I come to the statement of the chairman of the committee that we are between the horns of a dilemma, the second horn being public acceptance. Mr. Brake, I will say to you frankly, as a long time friend of yours, that I do not care whether the people accept what we do or not. I say, as I said day before yesterday, I would like to write an ideal constitution. If the people turn it down, it will be their fault and not ours.

Perhaps some of you remember the gentleman from New Jersey, who was a member of the Constitutional Convention of New Jersey of 1947, a judge of one of its courts, and had held other high positions, and he wanted on his tombstone the fact that he was a member of the New Jersey Constitutional Convention of 1947, and nothing else. I feel that I would not want that on my tombstone and, as we are going now, I do not think I would want my friends to know that I was here. (applause)

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. King.

MR. KING: Mr. Chairman, ladies and gentleman of the committee. First of all, let me say that I favor a graduated income tax—at the federal level. I do not favor what was once known as the Connally amendment, the proposed twenty-third amendment, which now, I guess, will have to be a proposed twenty-fourth and eventually a proposed twenty-fifth, I suppose. I believe that the federal graduated income tax is here to stay.

But I am concerned about this argument concerning the little people. I want to be on the side of the little people, and so I would like to answer that particular type of argument. I would ask the self styled Robin Hoods to consider this point carefully: it is all right to talk about welfare—I think it is wonderful myself—but at best it is a poor substitute for full employment. Now, what will this prohibition do for the little people? That is the concern and should be the concern of each and every one of us as delegates. It will do this: it will serve notice upon the states of this union and the citizens of this union that we in Michigan do not favor a graduated income tax at the state level. This is going to encourage, I think, a sound economic climate here in the state of Michigan. It is going to encourage an atmosphere for the kind of economic growth that we want, and this kind of economic growth is what in effect and in fact really helps the little people.

We as a state are in competition with 49 other separate, sovereign, semi sovereign units of government. If the federal government levies a graduated tax—which, of course, it does and will continue to do—at least it is uniform. It is not discriminatory as between one state and another state, but if some states levy this kind of tax and others don't, I think you can see that people who have freedom of choice, which we still do have in this country, may be inclined to go to those states which offer the best tax advantage as they see it, and the effect of upsetting this competitive balance between the states will ultimately force—and I say force—the federal government into a socialistic position of absolute paternalism in order to provide for the needs of these little people that we are so concerned about. And in the end, these people, the working people of our state, are going to be hurt twice: one, they are not going to have jobs; and two, there is not going to be any source of taxation from which to adequately support the necessary welfare programs which are required when people are unemployed.

So I think we ought to give an awful lot of careful consideration to what we are proposing to do here by Delegate Austin's minority report. I think this is a constructive step forward—and I am assuming that we don't want this paternalistic socialism; I think that is a safe assumption; I think every one of us here can agree with that—I think that we can take a constructive step forward if we will just serve notice upon those who would want to do business in this fine state of ours that we are not in favor of a graduated income tax at the state level.

Now, let us talk about this tying the legislature's hands. I think too much emphasis is put on that: that we are going to tie the hands of the legislature for the next 50 years. Under our system of referendum and initiative petition, I do not think that we are doing that at all. We had a 3 per cent limit on the sales tax. Apparently, it proved inadequate. We went back to the people and raised it to 4. All we are really doing is saying that the people are going to have a voice in this particular matter, and I think that this is a sound, constructive step and I don't think an analogy between what we do at the state level in this regard with what we might do at the federal level, where we have only really had 13 amendments in the last 175 years, is at all valid.

A state constitution should be somewhat more restrictive, somewhat more detailed, and somewhat easier to change. All we are really doing is saying to the people, the little people and the big people—because they all vote—that they are going to have an opportunity to pass on this particular question before we go in that particular direction. I think it is sound.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Muskegon, Mr. Seyferth.

MR. SEYFERTH: Mr. Chairman, fellow delegates, the new amendment presented by the minority interest did not in effect, at least to my recollection, pull out of the journal the supporting information in regards to their position. In this supporting information found on 521 of Journal 73, we find almost paragraph by paragraph defending a graduated income tax. Now, by merely removing the last sentence on line 22, it does not then, in my estimation, change the picture whatsoever.

It seems to me that we are now talking about our personal beliefs and our personal philosophies, and it boils down simply to this: if our personal philosophies allow us to appreciate and believe in the present graduated federal income tax methods of paying for our country's bills, then we must be in sympathy with the minority report. By the same token, if our philosophies do not accept the graduated federal income tax base as a proper way of taxation, then we must follow the majority report of the committee.

It seems to me that we have all made up our minds based on our individual philosophies a long time ago. Any statement made on this subject for the last 2 or 3 hours, including the one I am making now, certainly is not changing any votes. I would suggest that we get on with the voting, ladies and gentlemen, and proceed.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Taylor, Mr. Marshall.

MR. MARSHALL: Mr. Chairman and fellow delegates, I want to echo the remarks made by Mr. Seyferth. I do believe that practically all of us—I am sure that most of us—have made up our minds as to what form of income tax that we would prefer if there is to be an income tax. I am not going to express on the floor my own viewpoint as to the form of taxation that I would prefer. I am going to infringe upon your time and patience, either, by any long, extensive remarks, because I believe everything that can be said on both sides of this argument has been said and said more than once.

I do object, however, and I have from the very beginning, and I have done this in committee and I do it here again on the floor and I will probably do it over and over again—I agree with Mr. Tubbs that I think we want to write a sound document, one containing basic, fundamental law. We are, I am afraid, and it is obvious to me and I think it is evident in many of the committee reports—and I think Delegate Hutchinson said it the other day and I agree with him 100 per cent when he said that all of you, well that may be a little too broad a statement but, let's say the overwhelming majority—were acting like legislators instead of writing a constitutional document.

I think it is a mistake to insert into a constitution any restriction, to try and insert into this constitution the philosophical viewpoints of an individual or a political party. At the rate we are going with the amount of restrictions we are placing in it, the do's and the don'ts, we might consider just abolishing the legislature and write everything out in the constitution from now to the next 100 years. I think that we should leave it up to the legislature from time to time to debate the question of taxation upon the needs at that time, leave it to the legislature to enact the form of taxation that they feel is necessary at that particular time.

I want to compliment the distinguished delegate from Birmingham for the very efficient way in which he has been able to insert his thinking and philosophical viewpoint into the committee reports. I might say that he is becoming so efficient that he is going to wind up like the efficiency expert who became so efficient that he only had to say a prayer on January first; the rest of the year he said "ditto" and hopped into bed. Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the lady from Dearborn, Mrs. Cushman.

MRS. CUSHMAN: Mr. Chairman and delegates, once again I would like to rise and speak for a flexible constitution and good financial management. It seems to me that we are here writing a document that we—some of us at least—hoped would last for 50 or 60 years or more. When we look back over the past 50 or 60 years, we realize that we could not have foreseen the kind of changes that have taken place in the financial areas of state government. We have no more reason to believe that we could foresee the changes that are going to take place in the future in the financial management of this state.

It seems to me that we must realize that we should leave the legislature free to meet these changes as they occur in the best way that it can at that time. We do not know what is going to happen even 20 years in advance, let alone 50. Let us leave the matter of the type, the details, of this tax program to the legislature. Let us not put it into the constitution. Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Saginaw, Mr. Shackleton.

MR. SHACKLETON: Mr. Chairman, fellow delegates, it might be well to remember that the year 1909 was when congress first introduced the idea of a federal income tax. It was not until February 25, 1913, that 36 states had ratified that tax and made it operative. It took 4 years. One of the main objections after long, loquacious debating not only in congress but in the various states was the fact that, though they had suggested a 2 per cent tax and on a base much larger than \$600, some day it might become too large. The

proponents said, well, it might go up a little, possibly to 4 per cent.

Prior to world war II, 32 or 34 of the states had passed resolutions to try to get an amendment through that the tax could not exceed 25 per cent. The war came along and stopped that, since which, of course, it has gone up to 90. About the only relief has been the excess profits tax. One sure way to defeat an income tax would be to leave it wide open on a graduated basis even if you put a top of 10 or 11 per cent.

CHAIRMAN BENTLEY: The Chair recognizes the lady from Grand Rapids, Mrs. Judd.

MRS. JUDD: I just want to explain my vote on this issue when it comes up. I do not consider this just an issue on the question of an income tax or not. If I were voting in the legislature on this question, I would vote against a graduated income tax, but I want to speak a moment to Mr. King's point that this abolishing or prohibiting an income tax will make Michigan economically attractive. If any of you have read the publication from the Upjohn institute called Taxes in Economic Growth, which I think came to most of us before the convention, made up of essays by a number of tax authorities throughout the country, you will remember that almost all of them agreed that what made Michigan unattractive economically was not just its tax system but the friction that is going on within the state and the apparent inability of the state to solve its financial problems.

So my vote on this represents a protest against what seems to me the inadequacy of the tax committee's program for solving these financial problems for the state of Michigan.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from Stanton, Mr. Brake.

MR. BRAKE: That is the second time that Mrs. Judd has brought up that point, and I think it must have an answer from the committee. It is not the business of a constitutional convention and it is not the business of a constitution to set forth a tax program. That is the legislature's business.

A constitution should set the limits, the restrictions—and they should be sound—within which the legislature shall work. I am fully aware that we have offended against that principle in 1 item. The sales tax ought to be a statutory matter; it is in the constitution, but the people put it there and, as has been said before, when they speak they are boss. Outside of that the committee has tried to keep in its own field: the laying down of rules within which the legislature shall act and, as everybody knows, from time to time they will have to act differently and we cannot foresee how they will need to act 25 or 50 years from now.

I think this should be said: the first determination when this topic came up in committee was this: that we must answer yes or no on the question of a graduated income tax. Our old constitution has left that matter hanging in the air. Attorneys over the state have disagreed for years as to whether the legislature could pass a graduated income tax. Attorneys general have ruled on both sides of the question. I think if here we were to determine that we are not going to prohibit a graduated income tax, we should expressly say that it is authorized if the legislature sees fit. There will be lawsuits enough in connection with the new constitution in spite of everything we can do; we ought not to invite lawsuits by intentionally not covering something that we know will be the subject of litigation. So if we are going to say, "No, we don't wish to prohibit it," we should say, "Yes, we expressly authorize the legislature to do it."

Just one other thing in connection with Mr. Tubbs' remarks. I am sorry for his concern about what goes on his tombstone. I suppose that somebody—some radical—will come along and write the word "conservative" on mine (laughter) but I am not fussy about that at all. The only thing that I am fussy about is that nobody shall write it on there too soon! (applause)

CHAIRMAN BENTLEY: The Chair recognizes the lady from Port Huron, Miss Andrus.

MISS ANDRUS: Mr. Chairman and members of the committee, I wanted to speak yesterday. I wanted to ask Mr. Van Dusen a question. Now, perhaps, I should ask it of Mr. Brake. Ever since the depression and the passage of the

15 mill tax limitation, I have followed—that is about 30 years ago—I have followed our state taxes both locally and in the state with a great deal of interest. The people of Michigan were desperate in 1932 and '33, and this 15 mill tax limitation was to assist them locally. The state generously said that they would go off from their tax on property and they would raise the taxes for their state expenses in some other way.

We, however, have not trusted the legislature. We have earmarked most of those funds. I was very interested in Mr. Van Dusen's statements over and over this week that we should trust the legislature, that we should remove restrictions from its hands and give it a free hand.

Now as I look back—and I did this yesterday during the debate—I saw that we had not restricted—removed these restrictions. We have kept them. We have said we cannot trust the legislature to provide for highways; we have got to have some special funds for highways. We cannot trust the legislature to provide for the cities and the townships. We cannot trust the legislature to provide for the schools. And so we end up—I think all of you realize we are keeping practically all of these restrictions, though many of us came here with an idea and a hope that we could in the future trust our legislature.

Now do any of you remember the one thing we are going to trust the legislature with? That is the teachers' retirement, (laughter) the one thing. And Mr. Van Dusen made a very great plea that we could trust the legislature. Now I want to tell you that the teachers' retirement law was passed many years ago, before 1933, and the legislature was supposed to get money—

CHAIRMAN BENTLEY: The Chair will have to advise the lady from Port Huron that she will be out of order unless she addresses herself to the pending amendment.

MISS ANDRUS: Yes. Well this has a bearing on it. I am sorry if I haven't made myself clear. —so we found we couldn't trust the legislature, that when it didn't have money it couldn't put it in the teachers' retirement fund. That was why, when we passed the sales tax diversion amendment, we provided that there should be a certain percentage of that 2 cents for schools put aside each year, so that when teachers retired there would be some money, if the legislature didn't have money, which so often it didn't seem to have.

Now that is the point that I want to make in connection with the graduated income tax proposal. I hope that most of you are beginning to see the connection now. We felt the other day—I think all of the teachers did—"Well, we are going to trust the legislature; we are surely going to have more money in the future, and the legislature will be able to put it in."

Yet as we earmarked or kept in all these other earmarks, it seems rather pathetic that the retirement fund cannot be kept as a fund. Mr. Spitler made that very clear the other day, I think, to all of you. The fund is something that the people, the taxpayers, put in. They put in a provision so that it would be paid. I think every teacher is grateful that the convention has voted for a definite provision for teachers from now on when the constitution goes into effect, but it does not provide—in fact, it has taken away—the fund which was provided by the people to take care of the teachers who have retired and go up to their retirement period.

Now this is what I would like to ask. We wanted to free the legislature's hands, to trust it. Now we are by our 50 per cent assessment limit saying local governments cannot raise as much—before it was 100 per cent, now it is 50 per cent—we do not trust the legislature to have it 50 or 60 or something. Then we say it cannot pass a graduated income tax. I think we ought to be logical. Either we want to trust the legislature and let it do what it should, or I hope later on you will reconsider. If we limit the legislature in everything except our teachers' retirement, I hope you will reconsider that sometime.

CHAIRMAN BENTLEY: The lady yields to the chairman of the committee for reply.

MR. BRAKE: I rose to answer the question and I didn't hear any, so I will sit down again. (laughter)

CHAIRMAN BENTLEY: The lady still has the floor.

MISS ANDRUS: If we are not going to trust the legislature, then we should keep in the limitations we had before—and my question of you or Mr. Van Dusen was: do you think we can trust the legislature?

MR. BRAKE: That varies from delegate to delegate. As a former legislator, I trust it a great deal. There are those who do not. Somebody said yesterday and I heard the statement that you cannot expect in politics that anybody is going to be consistent. Maybe this bears that out.

CHAIRMAN BENTLEY: Miss Andrus, before you take your seat, I believe there are 2 or 3 members seeking recognition. Do you yield either to Mr. Van Dusen or to Mr. Tubbs for further reply?

MISS ANDRUS: Yes. Whichever one rose first.

CHAIRMAN BENTLEY: Mr. Van Dusen, the gentleman from Birmingham. You still retain the floor, Miss Andrus.

MR. VAN DUSEN: Mr. Chairman and members of the committee, I am delighted to learn how many converts to flexibility we have made. I just wish we had made them a little earlier.

CHAIRMAN BENTLEY: Miss Andrus, do you yield to the gentleman from Grand Rapids, Mr. Tubbs?

MISS ANDRUS: Yes.

MR. TUBBS: I just rise to a question of personal privilege, Mr. Chairman. I think I am entitled to equal time with Mr. Brake about tombstones. He said something with which I wholly agree. (laughter)

CHAIRMAN BENTLEY: The gentleman from Hillsdale, Mr. Prettie, is seeking recognition.

MR. PRETTIE: Yesterday at the conclusion of our afternoon session, I had requested that Mr. Austin give us figures in lower income tax brackets than \$200,000, so that we might compare the impact of a state graduated income tax with deductibility as we now have and hope we may have in the future for federal income tax purposes. Mr. Austin and I conferred concerning this subject this morning at breakfast. There has been distributed to each delegate a copy of such a schedule. I think it is informative to the delegates because I believe that more of us and more of our constituents are in the \$5 to \$50 thousand taxable income bracket than in the \$200,000 income tax bracket, and I wish to express my personal thanks and I hope the thanks of all delegates to Mr. Austin for the work that this represents.

CHAIRMAN BENTLEY: The question is on the Austin amendment to the committee proposal. The gentleman from Ann Arbor is recognized.

MR. POLLOCK: Mr. Chairman, I want to associate myself with the remarks that have been made by the very gracious lady from Grand Rapids and with those made by Mr. Tubbs. I feel that this is an exceedingly important turning point in the work of the convention. Either we slide down the hill to reaction or we go forward on a hopeful note.

I confess to considerable disappointment that this issue, the income tax, has been intruded into the discussion. I don't believe this was necessary. It seems to me that it is not a question of whether we favor an income tax, a graduated income tax, or not; it seems to me it is a question of legislative power and fiscal capacity. In the situation in which the state of Michigan finds itself today, in great fiscal straits, for this convention to forbid the legislature any reasonable means of trying to cope with that situation seems to me to be the height of futility, and I certainly could not approve of it.

Likewise the argument, which I certainly couldn't follow, of Mr. Martin's that because the federal government has preempted this field and because of the interrelationships between state and federal tax systems, that we ought to somehow—I couldn't quite get the thread of the argument—prevent the state of Michigan from adopting a graduated income tax.

Now, I happen to have worked for quite awhile in the field of intergovernmental relations, and I realize full well that the tax problem in the United States is a very, very serious problem and that it is an extremely difficult one for the

states; but I think it does not take too much vision to look into the future and to realize that it is possible even with the federal system, for the federal government and the states and localities within our lifetime to work out some kind of a division of tax capacity in the taxation field which would be satisfactory to everybody. In unitary governments this has already been done, because it is somewhat easier; there has been a division. It seems to me that it is not going to help the solution of federal-state-local tax relationships to write into the constitution for the long haul the prohibition against the state legislature from ever enacting a graduated income tax, whether it is tied into the federal one or not.

I think, therefore, that we should vote on this issue not whether we believe in a graduated income tax or not—I am like Mrs. Judd—if I were in the legislature today I would not vote for a graduated income tax; I would vote for a flat rate income tax, in the present situation. But if I were in the legislature I would not want to be forbidden by this constitutional convention to vote any way that the facts seemed to point.

I think, therefore, that we are at a turning point in the convention, and I am sorry that the whole thrust of these proposals from the finance committee instead of looking forward have, as Mr. Brake said a good many times, been looking apparently at the ballot box: what the people will accept. Well, what the people will accept—often you come to the conclusion that you want to come to. I do not know where Mr. Brake is looking; he is not looking in the same direction I am, and I think my view is at least as broad as his. I think what the people of Michigan want us to do is to do the best that we can do. Acceptance will follow if we do a good job. (applause)

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

MR. AUSTIN: Mr. Chairman, I had in mind responding to some of the remarks of Mr. Martin, but Dr. Pollock has done that a lot better than I could have done, and I want to thank Dr. Pollock. There has been distributed to you the chart which was requested by Delegate Prettie. I do not believe that you will have any questions, but I felt that I should make myself available to answer any questions that might arise in connection with it.

There is one little detail about this chart which I think you will find interesting. Down under the section "state income tax" on the last \$1,000 of income, "amount borne by the taxpayer", in the first column we are dealing with the taxable income of \$5,000. If we had a graduated rate structure which approximated that of New York or Minnesota—and I might say that one of the problems in developing a chart of this nature is that you have to make some assumptions as to how the rate structure would be graduated, and the graduations in tax structures throughout the various states are not uniform. In the first column we have \$29.60 paid by the taxpayer out of his pocket. The federal government would pay \$10.40 and the state would get \$40, the sum of the 2. In other words, from a \$5,000 income the state would take \$40; \$29.60 from the taxpayer and, in effect, \$10.40 which would be borne by the federal government.

I move over to the last column on the \$50,000 income. There the taxpayer would pay \$25, the federal government would pay \$75, and the state would wind up with \$100. The \$50,000 taxpayer would actually pay out of his pocket toward the state income tax less money than the \$5,000 taxpayer but the state would get \$100 in the one case and only \$40 in the other case. I thought that that was an interesting observation.

CHAIRMAN BENTLEY: Is the gentleman from Detroit, Mr. Madar, seeking recognition?

MR. MADAR: Mr. Chairman, I am going to make my remarks brief: let's vote.

MR. AUSTIN: Mr. Chairman, I had not completed—

CHAIRMAN BENTLEY: I beg your pardon, Mr. Austin.

MR. AUSTIN: Mr. Chairman, a great deal has been said on this subject. However, I do feel constrained to make a few closing remarks. Inasmuch as it has been necessary

for me to get involved in the technical aspects of this, I would like to present just a few comments in regard to the equity and the legislative freedom subjects about which there has been so much discussion.

Anyone—and I do not expect contradiction on this item of analysis—would be tempted to make sure that we write the proper taxes, the proper financial safeguards, into our constitution. This is one article of the constitution that tempts all of us to forget that the constitution is supposed to lay the groundwork for the operation of all branches of our government. One of the good causes for this temptation is part and parcel of the development of any constitution. Taxes pay the cost of government. The people have surprised their representatives by showing their willingness to pay the cost of government and they have used their power of initiative and referendum to prove not only their willingness but their concern as well.

Some of us favor earmarking of revenues; others oppose it. Some of us consider this a matter of good government principle while others regard it as an effect to be reckoned with because of the circumstances which brought about this effect and because this effect is not easily resolved. Regardless of where we stand on each governmental principle involved in each such issue, we will be neglecting our obligation if we fail to combine consideration of all factors of historic precedent, of future need, and yet we must not forget that the people make the final judgment on the new document.

The tax proposals and provisions for finances that have come before the committee on finance and taxation were numerous. They reflected our immediate circumstances. They have been aimed at small specific items and at large general items. They have urged tax relief for everyone. Many have tried to indicate new sources of revenue.

Our implied responsibility should be clear at this time. To succeed we must present within the revised constitution, first, a philosophy on which future fiscal policy shall be based.

We may take it for granted that our historic background rejects taxation without representation, but we should also remember that our historic background stresses equity as a principal ingredient in our fiscal philosophy. A tax structure is considered adequate when it yields sufficient revenue to meet rising costs for providing public service for a growing population and an expanding economy. Obviously, the Michigan tax structure has failed to meet this test. Equity or neutrality in taxation is achieved when equal treatment is given equals and when the distribution of tax burdens among income groups is regarded as fair or proper. The achievement of equity must be sought in consideration of the tax structure as a whole where some progressive levy may have to be included to offset the regressive nature of other taxes.

The Michigan tax and local structure abuses the concept of equity in a variety of ways. There are gross inequalities in the assessment of property for local tax purposes and its impact on business. The sales tax does not treat equals in like manner, because its impact depends on how a taxpayer spends his money; it violates both the concept of horizontal equity and vertical equity; nor does it do justice to low income families and large families. These are glaring inequalities and there are also inequalities in the business activities tax, the franchise tax, intangibles tax, insurance premiums, alcoholic beverages and cigarette taxes. The impact of state and local taxes on business and industry must not deter industrial growth or adversely influence industrial location decisions. Business taxes should be determinable with clarity, should bear some reasonable relation to the volume of public service utilized and should be imposed at a level consistent with that of other states.

Among us are those who are intensely concerned with preventing government encroachment and those who stress more local control and others who argue that services coordinated by the state are more economical. These are the positions that reflect the paradox of our times. To ignore or suppress them would be to ignore our times. But this is the important moment when we must do more. This is the time when we must admit imagination as to the respected participant in our deliberations. We can not know what will face the legislature 5 years from

now. To tie their hands would be not only unimaginative but also foolhardy.

The people we represent expect us to achieve the best possible philosophy, to protect their well being, to lay the best possible groundwork for the best possible legislation; but the people we represent also expect our conclusions will be just and fair and equitable and flexible and adaptable and serviceable to all the people, will help provide good government that does not go beyond its proper boundaries but is prepared to give good service whenever and wherever there is need. They have a right to expect this miracle. Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Bloomfield Hills, Mr. Woolfenden.

MR. WOOLFENDEN: I would like to ask Mr. Austin a question. Mr. Austin, in this chart which you distributed today and in the one which accompanied your minority report, you did not point out in your oral presentation that this evidence that it costs the big taxpayer less than the little taxpayer is directed only at the last thousand of income. Is that correct?

MR. AUSTIN: That is correct, Mr. Woolfenden.

MR. WOOLFENDEN: And would you say, would you agree with me that the last column, the \$50,000 or the biggest one on the chart that you present this morning, is proof positive that the graduated income tax reaches a point of diminishing returns in the higher brackets?

MR. AUSTIN: I am not quite sure that I understand that question, Mr. Woolfenden.

MR. WOOLFENDEN: Well, in effect —

MR. AUSTIN: Pardon me. Just to make sure that you understand why I am confused. I do not know whether you mean diminishing returns to the state or diminishing returns to the federal government or to the taxpayer.

MR. WOOLFENDEN: The diminishing returns to government from the taxpayer — if, in other words, this thing constitutes an invasion of the federal revenue in the case of the larger taxpayer and relief to the larger taxpayer on the last dollar of income. Isn't that correct?

MR. AUSTIN: That is correct. We are talking about invasion of the federal preemption that has been stressed here on the floor. This is one example of how the state might invade that so called preemption by the federal of the — let's say the income of taxpayers for income taxation.

MR. WOOLFENDEN: Well, we're all citizens of the United States as well as the state of Michigan and these governments have to get their revenues from some place, and I think we are deluding ourselves when we think that we are producing revenue by taking it out of the federal treasury, long range, for the state. I think we reach a point of diminishing returns under a graduated income tax.

MR. AUSTIN: With apologies to the Chair for continuing this, I do not believe, Mr. Woolfenden, that this is a delusion. It is a fact. We have over 30 states that have graduated rate structures in their income tax programs. This is a fact which we cannot overlook. It is a fact that we can do nothing about. We can do nothing here, sitting in this constitutional convention, about the graduated rate structure of the federal income tax. This is a fact that we must live with.

Now, having these facts before us, we must consider whether it is advisable to make it possible for our state, our state legislature, to do exactly what the other states are doing in getting what we consider to be the fair share of the revenue from income taxation and to prevent the taxpayers of Michigan from contributing disproportionately to federal programs in other states. Now it is not for us to say here that this ought to be done. We are only interested in saying that we should not prevent the legislature from doing it if it should feel in its wisdom that it is desirable to do so.

MR. WOOLFENDEN: May I speak to the question?

CHAIRMAN BENTLEY: The gentleman from Bloomfield Hills has the floor.

MR. WOOLFENDEN: I welcome the opportunity to vote on the morality of a graduated income tax. This is the only time in my lifetime, probably, that I will have the opportunity

to record my position on the morality of a graduated income tax.

I don't think 2 wrongs make a right, and that is why I don't think — why I am not impressed by the argument that competitively with other states we should have a graduated income tax if, in fact, it is morally wrong.

This country has been built, in my judgment, in my conviction, because of equality of opportunity and not because of legislative equality. If we want to make equal by legislation, then we should join some socialist government; but I am in favor of equality of opportunity, and I think a graduated income tax which says if my next door neighbor earns twice as much money as I do that he should not pay twice as much, he should pay 4 times as much, is essentially an immoral tax. I am absolutely opposed to it, and I am against this amendment and for the committee proposal. I do not believe we are hamstringing the legislature; I think we are merely stating the American philosophy of free enterprise and equality of opportunity. (applause)

CHAIRMAN BENTLEY: The Chair would like to announce, before recognizing the next speaker, that we have 5 more speakers scheduled to speak on this amendment and the secretary advises that there are 4 other pending amendments on the desk to this paragraph. The Chair recognizes the gentleman from St. Joseph, Mr. Upton.

MR. UPTON: We have heard a great deal about raising revenues to meet our expenditures. I think one of the things we have not talked about is how we can give direction to our legislature as the economy is in our state. Looking at the facts and figures of government finance put out by the tax foundation corporation, we find that Michigan is already paying \$101.78 per capita in state taxes.

Ladies and gentlemen of this committee, this compares with our neighboring states of Ohio at \$75.33 per capita; Minnesota, \$96; Illinois, \$75; Indiana, \$81. These are our competing states that we are neighbors with, the states that are taking our industry away from Michigan; and if we add to the already overburdened per capita by even talking about a graduated income tax, in my estimation we are not helping our business climate. The people of Michigan have already spoken about their desires for not having an income tax when they voted last year for the 1 cent increase in sales tax. We were hopeful that this would take care of our state requirements but it has not. We should at least give direction to our legislature that the people do not wish it to pass a graduated income tax. This is why I am supporting the committee proposal.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Binkowski.

MR. BINKOWSKI: Mr. Chairman, ladies and gentlemen of the committee, I would like to remind the committee that this proposal before us not only ties the hands of the legislature but ties the hands of all legislative bodies in the whole state of Michigan. I think that I tried to point out yesterday that the city of Detroit in its tax study recommended a piggy-back income tax; that is, an individual would first determine his federal income tax and then, for example, take a 3 per cent flat rate of that federal income tax. Now, this proposal would prohibit the city of Detroit or any other local unit of government from doing this, and I submit to you that this proposal, then, interferes with the principle of local self government.

Mr. Woolfenden's plea for equality is, I think, kind of amusing, if you will excuse me, Mr. Woolfenden, for commenting thusly. When we get into the question of reapportionment, I think that we will be talking about equality, too, that is, the theory of one man, one vote. And it is interesting to note that it appears, I would say, that the majority here believe in equality of taxation: that is, everyone should pay the same amount of taxes — their vote should not be the same but they should be able to pay the same amount of taxes. Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grosse Pointe Shores, Mr. Cudlip.

MR. CUDLIP: Mr. Chairman and members, I should like to address a question to Mr. Austin and then make a brief observation, if I may, through the Chair. Mr. Austin, suppose

that each of the 50 states of this union had a graduated income tax of the kind you advocate? Because of the legislative enactment and rates reasonably high—you don't know what they would do over a period of years—what would that do to federal finances? The present administration has a budget of \$90 billion dollars per annum. We owe \$300 billion.

As Mr. Woolfenden said, we are citizens of the federal government and citizens of each state, the state in which we reside. We are proud members of the United States, as well as being citizens of this state. It seems to me that if this thing is carried to its conclusion, the federal government will not have the money to carry on the wars, hot or cold, or to perform all the other services that they are required to perform because of the nature of that government.

MR. AUSTIN: Mr. Chairman, Mr. Cudlip, I do not believe that we should be concerned here at this convention about the federal budget and how funds should be raised for the federal government. Our major concern is for the taxpayers of the state of Michigan, and we are concerned to see that the taxpayers of Michigan do not contribute disproportionately to federal projects in other states.

Now, it is conceivable that if every state had a graduated income tax, it would materially reduce the amount of revenue going to the federal government, and it might be necessary for the federal government to take some offsetting measures. At the same time it is also conceivable that by raising additional revenue these states will be able to provide services for themselves that they now ask the federal government to provide.

MR. CUDLIP: Thank you very much, Mr. Austin, but I do not know how we are going to provide money for these services that only the federal government can perform, and one of those is the defense of our nation in these perilous times. We have been in cold wars and hot wars for years and I am very fearful that if we implant this doctrine in each sovereign state, we are going to have dire consequences as respects our federal government, which is our government too.

MR. AUSTIN: Mr. Chairman, if I may, just one more response?

CHAIRMAN BENTLEY: The gentleman has the floor. He may yield to you.

MR. CUDLIP: I yield.

MR. AUSTIN: Thank you. We have to remember that over half of our states have a graduated rate structure; over half. The precedent has already been set. It is not a matter of Michigan starting a stampede in this direction. It is merely a matter of Michigan—if I can put it this way—catching up.

MR. CUDLIP: Two wrongs don't make a right, and this proud state should not continue any lead that might affect the finances of our central government. Thank you.

MR. YOUNG: Mr. Chairman, would Mr. Cudlip yield? I would like to comment on that question.

CHAIRMAN BENTLEY: Do you want to yield to the gentleman from Detroit, Mr. Young?

MR. CUDLIP: I yield permanently.

CHAIRMAN BENTLEY: The gentleman is inclined to yield; he yields the floor, Mr. Young. You will be recognized in your turn. The Chair feels impelled to make a statement before recognizing the next speaker. He has often heard of the law of diminishing returns, but it certainly does not apply to the number of people who wish to speak. We still have 5 people scheduled on this amendment. The Chair recognizes the gentleman from Detroit, Mr. Downs.

MR. DOWNS: Mr. Chairman, there are 2 points I wish to make and I will try to make them very brief. The first is on the history of the sales tax. It is true that this was put into the constitution by the people. I think it was done in a period almost, shall we say, of economic desperation that all of us hope we don't return to. It was done in conjunction with limiting the property tax.

Now, I think in trying to look ahead that I would like briefly to comment on comments of 2 of the delegates in particular. I believe Delegate King from Oakland county made a very good point on the so called competitive factor and, if I understood him correctly, he pointed out that federal taxes—while people may not be enthusiastic about paying them—

at least have the uniformity concept of taxes, so that no one state was put at an economic disadvantage.

I believe Dr. Pollock, in his usual manner of looking ahead, projected the concept that at some time there would be additional division of revenue between the federal and state and local governments, and I think those 2 concepts are not inconsistent even though they may look so at first blush.

My own thinking, for whatever it is worth, is that we will get to the point in our financing where we quit putting these watertight compartments about forms of taxes and be concerned more with function, specifically. I can see the day when we overcome the so called competitive factor among states that often tends to penalize the state trying to meet its problems by—and I hesitate, Mrs. Judd, to use the word "earmarking" but—perhaps reserving a certain amount of the income of corporation or other federal tax we pay to Washington for the purposes of the states and local communities. This would mean that then we would get revenues on a noncompetitive basis amongst the states and yet keep that state administrative control that is so near and dear to many people's hearts. I cite as an example the highways, and there has been a lot of discussion about roads, but the outstanding feature to one who drives a lot is that we are getting roads in Michigan, and one reason is not only our eminent highway director but is the fact that we have some uniform federal gas tax money coming into Michigan; and it doesn't matter what state we live in, we pay that same amount of federal gas tax so that the charge cannot be made that roads are putting one state at a competitive disadvantage with another.

Now, in writing this document, I do not pretend to spell out just what that federal-state relationship is that Dr. Pollock refers to. As I indicated, my own thinking is that it will be the direction where there are certain federal minimum standards, where there are certain federal assurances of a rebate of money that was collected in various states with the states and local communities handling the administration of the financing. But to do this, I plead with the convention not that we make that blueprint for 50 years ahead but at least that we have a constitution which will permit that type of organic development between the federal and state government that will end up best meeting the needs of the people. I do not know particularly what form it should take, but I do believe we should allow the leeway to have that federal-state relationship develop that Dr. Pollock mentioned. Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Madar.

MR. MADAR: Mr. Chairman, I would like to bring out a couple of points, and I would like to give an answer to some of the things that have been said here. I sort of begin to worry a little bit myself about the worries of all these people around here who are thinking about socialism creeping into the state of Michigan.

Well, it seems to me that a lot of these people haven't been worrying about how much money they were going to take from Detroit. A couple of days ago they were willing to take it away because they thought that they ought to grab a share of that money that is down there, or a lot of that money that is there. They say that this is going to kill incentive. Kill it? Don't you ever think it is going to kill incentive. Believe me, these people who are worried about how much this is going to cost them and they may just as well quit trying to make any more money because they cannot keep it—believe me, you just step aside a little bit and watch your own brother start stepping into your shoes. They would like to take your place. In fact, if you don't move in a hurry, they are going to run over you, and they will pay that tax; they will pay it in a hurry.

You worry about taking moneys away from the federal government? How silly can you get? Here just a couple of months ago the legislature of this state refused to accept any money from the federal government. You said it was welfare. And when I say you said it was welfare, I would say there are a good many of you here who were telling your partners over in the legislature not to accept it. Well, let me tell you something. If the government had that kind of money to give to the state

of Michigan, I think you are mighty foolish, mighty, mighty foolish not to keep it here so that they don't have to give it to you in welfare. Let's keep it here, as I said, then it won't be welfare. Now, let us see what happens to this money when you do not take it. Well, they don't cut your taxes. In Michigan, we have been one of the highest paying tax states in this country. We have always been one of the highest taxpaying states in this country—not here, paying it to our government here; we have been sending it to Washington to give to those states where they will not pay any taxes, where they are doing what you are trying to establish here: where they refuse to pay for the government, their state government. They want the federal government to pay it, want you to pay it. How silly and stupid can you get? Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Jackson, Mr. Karn.

MR. KARN: Mr. Chairman and members of the committee, I only want to express my position by saying that I am in wholehearted agreement with the statement made by Mr. Woolfenden, and that I am voting in opposition to the amendment of Mr. Austin.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Romeo, Mr. Rush.

MR. RUSH: Mr. Chairman, ladies and gentlemen, I am going to be very brief. I just want to make one statement. I think it is obvious to most of us that our federal income tax has gotten out of hand. And why has that happened? Simply because we didn't put on proper safeguards. It is quite evident that any unit of government will find a way to spend all of the money that comes their way. We have tried to buy friends among all the nations of the world, even buy our enemies. So they will spend all the money they get. Today we are in a position to put in some proper safeguards so that doesn't happen on the state level. Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Young.

MR. YOUNG: Mr. Chairman, as one of the sponsors of the minority report, I thought a few minutes ago to answer a question of Mr. Cudlip addressed in the direction of that report, and I am sorry that he did not see fit to yield at that time and, therefore, my reaction will be somewhat delayed. All I want to say in answer to his question is, what would happen if 50 states were to adopt a graduated income tax and thus take advantage of the reduction of the amount of money going to the federal government is that if we pass the proposal, it will be only 49 states because Michigan will be unable to take advantage of this tax rebate. In fact, what we are proposing is to permanently forbid the state of Michigan and the taxpayers of Michigan the possible opportunity of taking advantage of certain federal moneys that can be kept in the state while, at the same time, 33 out of 35 states that presently have an income tax take that advantage.

This is merely another way of increasing the tax burden on the people of Michigan and passing Michigan money out to the other 49 states. Now, that was the reaction to the question.

The other point I want to make, and I will be brief, is that we are now proceeding in the general article on finance to establish what seems to me a political philosophy: to freeze a certain direction of taxation. Now, if there is any legitimacy to the argument that has been advanced here that we need to encourage industry and that industry needs relief, then we must also recognize the fact that the lower income groups in Michigan need relief. I do not think that we should forevermore freeze the philosophy, a trickle down philosophy, into our constitution which is based on the theory that what is good for General Motors is good for Michigan. I think we should give some attention to the fact that there is a necessity for making the maximum amount of money available to those in the lower income brackets, so that they would have enough funds to purchase some of the products that industry seeks to distribute.

Now, in regards to a philosophy, Mr. Van Dusen has advanced Mr. Parkinson's law or laws. Now, I am not too familiar with Mr. Parkinson. I understand he is a full time humorist

who in his spare time deals with economic matters, but it is my fond hope that in embracing Parkinson's laws we here in Michigan do not become infected with Parkinson's disease. (laughter)

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Niles, Mr. Boothby.

MR. BOOTHBY: Mr. Chairman, ladies and gentlemen, I think that this question now before us, the question of whether we are going to adopt the committee proposal or the minority amendment allowing for a graduated income tax, resolves itself to this basic problem and this basic principle: are we going to allow taxation to be used only for the legitimate needs of government or are we going to allow it to be used for the distribution of the wealth?

There are 2 uses of taxes. The one use is to take care of the legitimate needs of government and that is the legitimate use, and the other use that has been seized upon by some people is to use taxation for the principle of distributing wealth. This is what I call a Robin Hood style of government where you take it from the rich and give it to the poor. I do not believe this is the legitimate purpose of taxation and I feel that it is necessary to write into the constitution a prohibition against a government adopting this theory of taking it from the rich and distributing it and leveling all people to the same status in society.

I will say this, that if we allow for a graduated income tax you will never see a time where there will not be a demand for increased services. The only way you can control the demand for increased services is to prevent the adoption of a graduated income tax. I thought it was most interesting to note that 2,300 years ago the Greeks tried the so called progressive income tax—and there is nothing progressive about an income tax, it was tried 2,300 years ago by the Greeks, and a leading scholar of that day, Socrates, made this comment; he said:

It would appear that success is to be punished; that exorbitant taxes have made it a crime for man to prosper.

The end result of such order can only be removal of incentive, the discouragement of our people and the destruction of our free society.

When a few years later the Spartans came and attacked Athens, the Greeks did not seem to feel they had anything to fight for. Thank you very much.

CHAIRMAN BENTLEY: The Chair would make an announcement. There is one more speaker on the list. The Chair has been very flexible in allowing remarks on the pending amendment but, as the Chair understands the pending amendment, this is not over the merits or demerits of a graduated income tax; it is only whether or not there should be a constitutional prohibition against such tax. The Chair will feel compelled from now on to hold any future speeches strictly to that interpretation. The Chair recognizes the gentleman from Ann Arbor, Mr. Bonisteel.

MR. BONISTEEL: Mr. Chairman and fellow delegates, you would think that whatever we are going to do in adopting a provision in the constitution at this particular time prevents for all time something being done about a thing that may become apparent or may not become apparent in the years ahead. I want to direct the delegates' attention to the fact that I believe this convention will endorse and approve in the constitution the things we call initiative and referendum, and I believe if the people want to speak on a graduated income tax provision they can speak through the initiative and referendum, and I do not think that we are limiting in any sense the type and kind of taxation that the people of this state might want in the future, because we have the perfect device to answer that question. That is the position, I think, that the delegates should take here.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Hancock, Mr. Heideman.

MR. HEIDEMAN: Mr. Chairman, fellow delegates, I wish to oppose the inclusion of this prohibition against the graduated income tax in the constitution. There must be something with which we can entrust the legislature. We have been debating here as if we were passing an income tax. If I were

listening in on this, came in on this, I would think we were debating an income tax. Are we going to pass it now today? Are we voting on this subject? We are not voting on any such subject at all.

As a matter of fact, Woodrow Wilson, I think, made the observation that the supreme court is like a constitutional convention in continuous session. Well, maybe what we should do is decide to remain in continuous session at least until the last delegate dies to cover our tracks for mistakes we made by dating our constitution. I think if we put this thing in here, within a matter of 2 years or 5 years they will be tearing apart our constitution, and I think we should try to make it a document which will stand some test of time. Furthermore, in accordance with what President Eisenhower said, by leaving some authority to the legislature, why, we can help to maintain state government and maybe encourage the survival of our federal system of government rather than the unitary system, so that people can look to the state for some things.

I might add that, as somebody mentioned the fact about abolishing the legislature, maybe we should at least suspend it if we are so fearful of its actions. Now, this thing has to be debated and passed by the legislature. Reference has been made to the sales tax—

CHAIRMAN BENTLEY: The gentleman will be out of order unless he confines himself to the pending amendment.

MR. HEIDEMAN: Very well. I just wish to say that I think it would be a very foolish thing if we write this restrictive thing into the constitution.

CHAIRMAN BENTLEY: The question occurs upon the amendment of the gentleman from Detroit, Mr. Austin. As many as are in favor of the pending amendment will respond by saying aye. Those opposed will respond by saying no.

A DELEGATE: Division.

CHAIRMAN BENTLEY: There is a demand for division. Is the demand supported?

SECRETARY CHASE: There is a sufficient number.

CHAIRMAN BENTLEY: Those in favor of the Austin amendment will vote aye; those opposed will vote no.

SECRETARY CHASE: Has everyone voted? The machine is locked and the totals will be recorded.

CHAIRMAN BENTLEY: The secretary will announce the result.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Austin and other members of the minority, the yeas are 58, the nays are 66.

CHAIRMAN BENTLEY: The amendment is not adopted. Are there other amendments to this paragraph?

SECRETARY CHASE: We have some, Mr. Chairman. Mr. Hodges offers the following amendment:

1. Amend page 1, line 22, after "graduated" by inserting "more than 50 per cent"; so the language will read, "No income tax graduated more than 50 per cent as to rate or base shall be imposed by the state or any of its subdivisions."

CHAIRMAN BENTLEY: The gentleman from Detroit is recognized in support of his amendment.

MR. HODGES: Mr. Chairman, I offer this amendment because there seems to be some feeling we should have a limitation on this and, therefore, I feel it should be a reasonable limitation. I listened to a television show last Sunday in which the proponent talked about a new image for the Republican party, and yet we find the chief spear carriers for the new image voting the same traditional way as we would expect from the Republican party. Now, it seems to me that all this new image amounts to is trying to put the same old tripe in a new package.

A DELEGATE: Point of order, Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman will state the point of order.

A DELEGATE: The speaker is getting into personalities, which are not only out of order but are far beneath the dignity of the committee.

CHAIRMAN BENTLEY: The gentleman will proceed in order.

MR. HODGES: I was just saying that the cellophane on

the wrapper is pretty thin and we can see pretty much through it. I think Mr. Seyferth and Mr. Woolfenden stated the case clearly. It is for those who believe that even the federal progressive income tax, graduated income tax, is wrong.

A DELEGATE: Point of order.

CHAIRMAN BENTLEY: All right, there is a question as to whether the delegate is in order.

MR. HODGES: It was brought up during the debate, Mr. Chairman. I think there is a correlation.

CHAIRMAN BENTLEY: The Chair will rule the gentleman is proceeding in order but will caution him to confine his remarks to the pending amendment.

MR. HODGES: I would only state this, Mr. Chairman: I would hope we can at last get a vote on this thing and a reasonable one. I think those that have voted here recognize that they do not have the votes to return the federal government to the eighteenth century, but they hope to do so for Michigan. Mr. Chairman, I hope that if we cannot get a 50 per cent we can at least get some reasonable limitation on which the state can progress. I ask that the amendment be supported.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Sterrett.

MR. STERRETT: Mr. Chairman, delegates, I happen to be in the party that Mr. Hodges referred to and I voted for the minority amendment last voted upon. Please put that in the record. Also, regarding the amendment of Mr. Hodges, because I voted the way I did on the last amendment, I will vote against this amendment, since, again, it is a restrictive item in this constitution and should therefore be voted down.

CHAIRMAN BENTLEY: The gentleman from Muskegon, Mr. Hanna.

MR. W. F. HANNA: Mr. Chairman, I hesitate to be in a cellophane wrapper for fear of embarrassment, but I will agree with Mr. Hodges' position and I will state the reason: because the committee—and I think most of us—believe that there should be some uniformity in taxation; but when we levy a sales tax in Michigan and then are in the future without a doubt to levy an income tax, it is apparent to many of us that if you examine your income there is a point at which you no longer expend your money in such a manner as to be subject to the sales tax. And as I progress into a higher income tax bracket, less and less of my income is subject to the sales tax. There is a point in the middle income tax bracket where I pay both an income tax and a sales tax, and if we continue the committee's proposal that there can be an income tax but uniform in rate, the income tax will bear most heavily on those people with incomes of approximately \$5,000 to \$10,000.

The Hodges amendment would allow the legislature to integrate the sales and income tax so that it would be a uniform deduction from my or your income whether taxed by means of the sales tax or the income tax, and it would alleviate the abuses which have crept into the use of the income tax for social purposes rather than revenue. In the interest of uniformity in extracting moneys from my income and yours, I believe the Hodges amendment is the proper procedure and should be adopted.

CHAIRMAN BENTLEY: The question is on the amendment offered by the gentleman from Detroit, Mr. Hodges. Is the gentleman from Detroit, Mr. Norris, seeking recognition?

MR. NORRIS: Yes, Mr. Chairman. I wondered, specifically, if we could have not only the language of the Hodges amendment but where it specifically goes in the proposal which we have before us.

CHAIRMAN BENTLEY: The secretary will so report.

SECRETARY CHASE: Mr. Hodges' amendment is as follows:

1. Amend page 1, line 22, after "graduated" by inserting "more than 50 per cent"; so the language will read, "No income tax graduated more than 50 per cent as to rate or base shall be imposed by the state or any of its subdivisions."

CHAIRMAN BENTLEY: As many as are in favor of the Hodges amendment will respond by saying aye; those opposed? The amendment is not adopted.

A DELEGATE: Division.

CHAIRMAN BENTLEY: Division has been called for. Is the demand for division supported?

SECRETARY CHASE: A sufficient number.

CHAIRMAN BENTLEY: Those in favor of the Hodges amendment will vote aye; those opposed will vote no.

SECRETARY CHASE: Has everyone voted?

The machine is locked and the totals will be recorded. On the adoption of the Hodges amendment the yeas are 47; the nays are 77.

CHAIRMAN BENTLEY: Then the amendment is not adopted. The secretary will report the next pending amendment.

SECRETARY CHASE: Mr. Hubbs offers the following amendment:

1. Amend page 2, line 1, after "subdivisions," by inserting "Persons engaged in an occupation, the practice of which does not require substantial investment in personal property or inventory, excluding exempt items, shall be required to pay a city and county tax computed at the same rate as the personal property tax and on a base which shall be equal to the average personal property tax paid by individuals but not corporations, within the city or county where the taxpayer is resident. The herein provided tax shall be known as a fair tax. The legislature shall implement the objective of this section."

CHAIRMAN BENTLEY: The gentleman from Gladwin is recognized in support of his amendment.

MR. HUBBS: Mr. Chairman, fellow delegates, we seem to have happily settled the progressive tax problem. I would like to start out by quoting a little known present day philosopher, "Lack of imagination is a hotbox on the railroad of progress."

To some of the legal minds present, this amendment may seem to be completely unworkable. I do not propose to defend the legal construction. I do desire to point out the gross inequity of the personal property tax with particular reference to its effect on small business and suggest that some remedy can be found to ease the burden of local taxes on business which are borne most unfairly at the local level. Personal property taxes on inventories are highly discriminatory, regressive and are not particularly related to the production of income.

Since there is apparently no hope of eliminating personal property taxes, the objective of this amendment to Committee Proposal 51 is to retain tax money at the local level being drained off to feed the bureaucratic monster in Washington. To retain some of this money at the local level is a plausible effort to reduce the load now being borne so unfairly by small business on the main street of every small town in Michigan.

Unrealistic depreciation schedules, unfair taxation, both state, federal and local, are the chief retardants of the economic growth and development of this state and the nation. I say in closing that one of the most unfair, discriminatory, and regressive taxes is the personal property tax at local level. Personal property taxes are sand in the gears and sugar in the gas, and if not removed or reduced to a fair level the economic machine is headed for the scrap heap.

CHAIRMAN BENTLEY: Is the gentleman from Grand Rapids, Mr. Tubbs, seeking recognition?

MR. TUBBS: Mr. Chairman, I hate to disagree with my almost namesake, but this amendment sounds like the doctor who, whenever he was in doubt about the condition of his patient, would give him a shot in the arm and when he was asked why he did that, he said, "Why that's to give him fits." "Well, why do you want to give him fits?" "I can cure fits." (laughter)

CHAIRMAN BENTLEY: The gentleman from Birmingham, Mr. Van Dusen.

MR. VAN DUSEN: Mr. Chairman, on behalf of the committee, we would oppose Mr. Hubbs' amendment and I would simply point out that the majority proposal does provide that the legislature may provide by law for exemption of property from taxation or for alternate means of taxation of such property in lieu of general ad valorem taxation uniform on the class or classes, and so forth. So that the objective which Mr. Hubbs seeks, of relief from discriminatory personal prop-

erty taxation, is available through the means of the majority proposal.

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Gladwin. As many as are in favor will respond by saying aye; those opposed?

The amendment is not adopted. The secretary will report the next pending amendment.

SECRETARY CHASE: Mr. T. S. Brown offers the following amendment:

1. Amend page 2, line 1, after "subdivisions," by inserting "In addition, no minority of the people of the state shall impose any tax upon the majority of people of the state." (laughter)

CHAIRMAN BENTLEY: The gentleman from Garden City is recognized in support of his amendment.

MR. T. S. BROWN: When you are through laughing, I would like to indicate in all sincerity that I am not trying to be cute. The terminology is very explicit. It means what it says and it says what it means. It is a very simple statement. You all recognize the implications of it. For those of you who don't, I would say that since taxes are expressed through our legislature that the minority of the people through their elected representatives cannot enact a tax oppressive or in any way a tax against the majority of the people acting through their elected representatives.

Now, the sole question is whether or not you believe in that particular principle, and I would not have troubled the committee with this particular amendment had the Austin amendment not failed. I would like to say this in further delineating and, I think, highlighting the dichotomy that exists between what we should be doing and what we are apparently doing and what we have done in the last 2 or 3 days in this convention by saying that if we follow Tom Downs' statement of how the argument regarding taxation has twisted and turned and if we recall when Mr. Ford and Mr. Hodges and I introduced the amendment concerning the elimination of the sales tax on food and drugs how Mr. Staiger said, "When we come to the income tax provision, we will find reasons;" and if you recall the reasons that Mr. Van Dusen urged upon us yesterday afternoon in regard to the limitation on the income tax—and, as you recall, the main thread of the argument was that people should not be allowed arbitrarily and indiscriminately to impose taxes on other people—then you will see that the real meaning of this particular amendment, I think, is in furtherance of the best local implications of the arguments that have been advanced on the other amendments.

I don't think this particular amendment requires a lot of conversation or a lot of debate. It is very explicit, and I am very, very much afraid that as a result of this morning's work, as Dr. Pollock has indicated, we are taking a turning point and the turning point is downhill, and I hope by this amendment and other things which will follow shortly that we may have a chance to begin uphill again.

CHAIRMAN BENTLEY: The question is on the amendment offered by the gentleman from Garden City. As many as are in favor will respond by saying aye. Those opposed?

The amendment is not adopted and the secretary will report the next pending amendment.

SECRETARY CHASE: Mr. Kuhn offers the following amendment:

1. Amend page 2, line 1, after "subdivisions," by inserting "No governmental subdivision shall impose any income tax except on its own residents; the state, however, may preempt this field of taxation."

CHAIRMAN BENTLEY: Mr. Kuhn.

MR. KUHN: Mr. Chairman, I am one who does not want to limit the cities or townships or counties as far as taxation, but I am one who can remember that we did have a revolution with our mother country over taxation without representation and so, while I do not want to restrict any of these units of government, I certainly want them to limit their taxes to the people who can vote them out of office if they are not happy with the way they determine the tax to be, and, therefore, I offer this amendment to protect everyone. We should have the

right to vote for those representatives who levy a tax on us. I think it is as simple as that, and I will not belabor this point.

CHAIRMAN BENTLEY: The gentleman from Detroit, Mr. Madar, is seeking recognition.

MR. MADAR: Mr. Chairman, I love this amendment. This is wonderful. I get quite a bang out of it, too. The poor city of Detroit. "C'mon boys, let's jump, they're lying under us right now. We can go ahead, we can build that new Chrysler highway that will extend all the way from Jefferson avenue, cut down along Dequindre avenue, up across the Eight Mile road, and on into Pontiac, where the boys will live"—another one of the bedroom cities. You know, I am not going to say anything much about that because I don't want you to call me out of order because, believe me, if I told you what they really ought to say about what happens out there, well, you would throw me out, you wouldn't just rule me out. (laughter)

Yes, "Mother city, please give us water. Mother city, please give us sewers. Mother city, please help us." You know, I sometimes wonder whether you are not all saying a prayer, those of you who submit these kind of amendments. I get quite a bang out of Mr.—well, the delegate, Mr. Kuhn, who last night told me he was going to throw a bombshell into this convention today. Do you know, he wasn't throwing any bombshell. Why, we have got at least 1½ million people in the city of Detroit who would tell you that this kind of bombshell would be thrown day in and day out—the only reason the rest of them do not believe that there would be this sort of thing happening is because they are too young yet to be able to speak or think for themselves. I am very much in opposition to this amendment. (laughter)

CHAIRMAN BENTLEY: Does the gentleman from Detroit, Mr. Madar, yield to the gentleman from Pontiac for the purpose of a reply?

MR. MADAR: Mr. Chairman, I am yielding the floor to any and all who wish to reply, but let's just use common sense when we vote.

CHAIRMAN BENTLEY: The gentleman declines to yield. The gentleman from Howell, Mr. Sharpe, is recognized.

MR. SHARPE: Mr. Chairman and fellow delegates, I am real pleased with Mr. Madar's attitude. This is a little different tone of voice than we have been hearing from Mr. Madar. (laughter and applause) I would like to say in regard to this Kuhn amendment that I must go on record in favor of this amendment.

I don't have any fight with the city of Detroit. I am not so sure that the city of Detroit gives too many things away. I understand that they do supply water for a fee, they do supply sewers for a fee to their subdivisions or their outcounty area, but I could never allow this amendment to go unspoken of by myself in regard to an income tax that a city could impose upon the people working there whether they lived there or didn't live there. Well, I do not believe that we should penalize people because they live in Livingston county or Shiawassee county if they work in Flint. I believe that these people have their obligations as far as their taxes are concerned in their own counties and in their own cities.

This, I believe, would be an unjust taxation upon the people and would be considered a penalty because they didn't live in the city. Now, I have not talked against the city of Detroit, and I don't really care if they become a county by themselves; this is all right with me; and if they want to annex themselves to Canada, that would be all right, too. I have no objection so long as the people do what they want to do down there. But I would object to them subjecting my people or the people outside of the city of Detroit to an income tax and thus would be penalizing them for not living in the city. Thank you.

CHAIRMAN BENTLEY: The gentleman from Kalamazoo, Mr. Allen.

MR. ALLEN: Mr. Chairman and members of the committee. Mr. Kuhn, if we fight about it now your proposed amendment is going to be fought all over again when local government reports, because if you will look on page 438 of the journal the whole subject comes up in connection with a proposal, a committee proposal, that pertains to cities and villages, and I really think if we get into a debate on this amendment now we are

just simply going to have to do it all over again when we hit local government, and I would suggest if you would prefer not to withdraw it—and I hope that you would—that this committee might know because we are going to have to go over the whole thing and I think in more detail when we hit local government. In other words, I am suggesting that your proposed amendment would be more in order when we hit local government rather than battling local government, in effect, now. Let's try to finish taxation on the state level first.

CHAIRMAN BENTLEY: The gentleman from Pontiac, Mr. Kuhn, is recognized.

MR. KUHN: If I can have the assurance from the chairman of the committee on local government that this amendment would be in order when that subject comes up, I would be willing to withdraw it.

CHAIRMAN BENTLEY: The gentleman from Pontiac yields to the gentleman from Pleasant Ridge, Mr. Elliott.

MR. A. G. ELLIOTT: Mr. Kuhn, you have my assurance.

MR. KUHN: I will withdraw my amendment at this time.

CHAIRMAN BENTLEY: Without objection, the amendment is withdrawn. The secretary will report the next pending amendment.

SECRETARY CHASE: Mr. Hodges offers the following amendment:

1. Amend page 2, line 1, after "subdivisions," by inserting "Further, the head of every family shall come to the state capitol and pay a head tax for every member of his family. The amount to be set by the legislature. Such tax to be uniformly applied." (laughter)

CHAIRMAN BENTLEY: The gentleman from Detroit, Mr. Hodges, is recognized in support of his amendment.

MR. HODGES: Mr. Chairman, it just seems to me that I was trying to get the feeling of the philosophies of the various members of this convention, and I thought that this tax would best represent it. As you know—there was a little bit of noise and you probably did not hear the last part—this is to be applied uniformly; therefore, we can make sure that everybody pays their fair share, and I think there is a lot of historical precedent for this type of tax, as we remember this is what they went to Bethlehem about.

CHAIRMAN BENTLEY: The gentleman from Sheridan is recognized.

MR. GOVER: I would just like to tell Mr. Hodges that back a few decades, about 1933, that tax was declared unconstitutional, the head tax. I paid my \$4 at that time and never got it back. (laughter)

CHAIRMAN BENTLEY: The question occurs on the amendment offered by the gentleman from Detroit, Mr. Hodges. As many as are in favor will say aye. Those opposed?

The amendment is not adopted, and the secretary will report the next pending amendment.

SECRETARY CHASE: Mr. Austin offers the following amendment:

1. Amend page 1, line 22, after "rate" by striking out "or base"; so the sentence will read, "No income tax graduated as to rate shall be imposed by the state or any of its subdivisions."

CHAIRMAN BENTLEY: The gentleman from Detroit is recognized in support of his amendment.

MR. AUSTIN: Mr. Chairman, I don't think I need to reiterate that I am opposed to the last sentence of this paragraph. However, if we are to retain that sentence, I think I should call attention to a danger that we have in the language. This question was raised in the committee and the committee sought to allay my fears by including something in the report, and I will refer to that in just a moment.

The purpose of this language as I understand it is to prohibit the state from levying a piggyback tax on the federal tax liability. There would be no prohibition to levying a tax or piggybacking a tax to the federal definition of income including the definition of the adjusted gross income as we know it and, possibly, the deductions. However, there is a possibility that through the use of this language we may be prohibiting exemptions. I checked this matter with some of the law professors at the University of Michigan over the weekend and they, too, were just a little concerned about this language "or base."

Now, to allay the fears of those who may be disturbed about our piggybacking to the federal tax liability which would include graduated rates, I think it well to say that the language without the words "or base" would accomplish that purpose, because if we say that no income tax graduated as to rate shall be imposed by the state or any of its subdivisions, I think we would by indirection forbid the imposition of a tax based on the federal liability which is arrived at through a graduated rate structure; and, since I have a grave fear that the use of the term "or base" might preclude the allowance of exemptions, I feel that the words "or base" should be deleted.

On page 405 of the journal, in the committee reasons it has added a sentence in its report that states, "The legislature could prescribe reasonable exemptions for a flat rate income tax." Now, this is in the report, but it is quite possible that although we have stated it in the report we may by this language be precluding the allowance of exemptions, and I therefore move that these words be stricken.

CHAIRMAN BENTLEY: The gentleman from Birmingham, Mr. Van Dusen, is recognized.

MR. VAN DUSEN: Mr. Chairman and members of the committee, this matter was considered at great length by the committee on finance and taxation, and the reasons for the words "or base" are explained in the committee report as Mr. Austin said. Without the words "or base" you do not really have any protection against an indirectly graduated state income tax, because a flat rate tax imposed upon the federal tax liability would simply pick up all of the graduation of the federal liability. Without these words "or base" there is no question but what in my judgment a nominally flat rate tax could be made a graduated income tax.

We made it very clear in the committee report that a flat rate income tax could be made the subject of exemptions by the legislature. I don't think that anyone has disputed it. The committee report is intended to make that crystal clear. I cannot imagine that any court construing the language in the light of the committee report would doubt or question the right of the legislature to grant reasonable exemptions.

CHAIRMAN BENTLEY: The question is on the amendment offered by the gentleman from Detroit, Mr. Austin. As many as are in favor will respond by saying aye. Those opposed?

The amendment is not adopted. The secretary will report the next pending amendment.

SECRETARY CHASE: Mr. Sharpe offers the following amendment:

1. Amend page 2, line 1, after "state" by striking out the balance of the line; so that the sentence will read, "No income tax graduated as to rate or base shall be imposed by the state."

CHAIRMAN BENTLEY: The gentleman from Howell is recognized in support of his amendment.

MR. SHARPE: In view of the fact that this issue will be taken care of in local government as pertains to cities, I would like the assurance now that it will be handled by local government and will not be put in this section. Mr. Allen spoke about the fact that this is going to be in local government, and I know it is, but we don't want—I am interested in not putting in the constitution that they may levy a tax. I would like to delete these last 6 words, and let us take care of this in the city government.

CHAIRMAN BENTLEY: The gentleman from Howell yields to the gentleman from Pleasant Ridge, Mr. Elliott?

MR. SHARPE: Yes, sir.

MR. A. G. ELLIOTT: Will the secretary read the amendment?

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

MR. A. G. ELLIOTT: The chairman of local government has no objection to Mr. Sharpe offering the proper amendment to the local government article, or the section that it applies to, at that time.

CHAIRMAN BENTLEY: Does the gentleman from Howell persist in his amendment?

MR. SHARPE: I would like to have this explained to me now. Mr. Allen can do it if he wants. I see he is on his feet. Is this going to interfere with anything that we might do in amending the article on local government?

CHAIRMAN BENTLEY: The gentleman from Howell yields to the gentleman from Kalamazoo, Mr. Allen.

MR. ALLEN: Mr. Chairman, I think as a practical matter, the political subdivision should not, for example, be allowed a graduated tax and the state not be permitted. I think that would be very bad and I don't think the convention would vote for it. I also feel that when we put a prohibition against a graduated tax in, that it will apply not only to the state but to all of its children which are the local units. So I think that what this committee has approved does pertain to the local units and that we shouldn't try and make a separation. I think we have made that decision and for practical purposes it means that issue is closed when we get to cities and villages and so on. In other words, I don't think this issue should come up in local government. I will yield to Mr. Van Dusen.

CHAIRMAN BENTLEY: The gentleman from Howell has the floor. Does the gentleman from Howell persist in offering his amendment?

MR. SHARPE: I will yield to Mr. Van Dusen.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Birmingham.

MR. VAN DUSEN: Mr. Chairman and Mr. Sharpe, I think Mr. Allen has clearly indicated that in terms of whether or not you want anybody, any taxing authority in the state, to be permitted to levy a graduated income tax, this is the time to dispose of that question. If the committee proposal stands, why certainly, an amendment in the local government article which would permit a political subdivision of the state to levy a graduated income tax, being inconsistent with this, would be out of order; but this is the time to settle the issue in terms of a graduated tax. It doesn't deal with any other aspect of the taxing power of local units of government.

CHAIRMAN BENTLEY: The gentleman from Howell retains the floor. Does he persist in offering this amendment?

MR. SHARPE: I am not so sure, but I think I do. (laughter)

CHAIRMAN BENTLEY: All right, the gentleman's amendment is pending business. Does the gentleman desire to proceed?

MR. SHARPE: I think you understand what my fear is, Mr. Chairman, and if this is not substantial, then I will withdraw my amendment; but if it is a substantial fear, then I would not withdraw it.

CHAIRMAN BENTLEY: The Chair is in no position to rule upon the degree of the gentleman's fear. (laughter)

MR. SHARPE: I would like to ask Mr. Downs, here; he has a city mind.

CHAIRMAN BENTLEY: The gentleman has the floor. He yields to the gentleman from Detroit, Mr. Downs.

MR. DOWNS: Thank you, Mr. Chairman. If Mr. Sharpe does withdraw the amendment, I shall be glad to reintroduce it. I rise to support the amendment. I believe we should separate here the matter of state finances and local government. I believe the chairman of the finance committee very accurately says that if this amendment is not adopted, then for practical purposes local government would be precluded from discussing the pros and cons of whether a city, for example, has a right to adopt the piggyback tax. I think from the logical development of the convention the matter of the local taxes should more appropriately be taken up when we discuss local government.

I therefore support Mr. Sharpe's amendment and believe that our convention will function in a more orderly fashion if we discuss the subject matter under the subject of the local government report.

CHAIRMAN BENTLEY: The gentleman from Howell.

MR. SHARPE: Thank you, Mr. Downs. I am glad to find some support. Now, I am not an experienced politician and I have found that when a curve ball comes I can hardly distinguish it from a straight one. (laughter) So I think, Mr. Chairman, that I will insist on my amendment being voted on. I

think we should delete these words and then I am sure, as you all have been assured, that it will come back again in local government.

CHAIRMAN BENTLEY: The gentleman insists upon his amendment. The gentleman from Birmingham.

MR. VAN DUSEN: Mr. Chairman, on behalf of the committee, I would oppose the amendment. Mr. Allen clearly indicated that we should not make a distinction between state and local units of government in terms of permitting a local unit to graduate an income tax but prohibiting the state from doing so. The principle of graduation or nongraduation is, after all, the only question here and if this committee opposes the principle of a graduated income tax, it seems to me that consistently we must oppose it not only for the state but also for local units of government.

I would point out to Mr. Sharpe that this provision makes no difference at all in terms of the general taxing power of local units of government, and that question will be before us when we get to the local government section. The only question here is whether both the state and local units of government shall be prohibited from graduating any income tax which they seek to impose.

CHAIRMAN BENTLEY: Does the gentleman from Birmingham desire to yield to either the gentleman from Kalamazoo or the gentleman from Pleasant Ridge, who are seeking recognition?

MR. VAN DUSEN: I will yield first to the gentleman from Kalamazoo.

MR. ALLEN: Mr. Chairman, Mr. Van Dusen has practically given my speech. I think that we cannot have 2 sets of rates, 1 for the state and 1 for local units. We could constitutionally if Mr. Sharpe's amendment prevailed, but I think it would be very bad and once we have made the decision on the state level we better stay consistent, and I would oppose the Sharpe amendment.

CHAIRMAN BENTLEY: Does the gentleman yield to the gentleman from Pleasant Ridge?

MR. VAN DUSEN: I will so yield.

MR. A. G. ELLIOTT: I am persuaded that this particular item requires discussion and decision at this particular time and I would hope that when it is decided, whether we decide it favorably or unfavorably, that there will be no attempt to bring it up in the local government article. We are going to have enough on our hands as it is.

CHAIRMAN BENTLEY: Does the gentleman desire to proceed? If not, the gentleman from St. Clair Shores will be recognized, Mr. Snyder.

MR. SNYDER: Thank you, Mr. Chairman. I rise to support the position of Delegate Sharpe, and I want to assure him that this bipartisan support that he is getting is one that is motivated by a desire to work out a problem and not the desire to throw any straight balls or curve balls. We feel that we have a mutual problem here, and here is a problem that I feel in my mind is more sensitive and will be looked at more closely by more people when they evaluate the long range effect of this constitution than any other particular item that we have before us.

I would like to respectfully disagree with the members of the committee on local government that this is an issue that we should set aside. I have pointed out before that I have sponsored a proposal along these lines that Mr. Sharpe speaks of at this point and I didn't feel that I had had an opportunity to present, at the proper time, my feelings to the committee. I was granted an audience with the committee on finance and taxation that did review my matter; they listened very courteously to my argument; but I felt that the die had been cast and I was given an appearance for courtesy's sake.

I honestly feel that we must divide the issues here. The issues are much too complex to throw between these 2 matters. I feel that if we set aside the issue for a later date, the die will be so firmly cast, the decision will be so irrevocable, that we will not be able to make any changes, and I certainly support and appreciate the position of Mr. Sharpe. I feel that we must separate the issues so that we can take them up in their logical order.

CHAIRMAN BENTLEY: The lady from Highland Park is recognized.

MISS DONNELLY: While I am sympathetic with the intent that I believe Mr. Sharpe wishes to reach and be successful in in another instance, I don't think it is pertinent to this issue. This issue is not whether one resident of one city may tax the resident of another city; this issue is how they can be taxed any place in the state. Therefore, I rise to oppose his issue for this reason and wish to support the majority report.

CHAIRMAN BENTLEY: The gentleman from Howell, Mr. Sharpe, author of the amendment, is recognized.

MR. SHARPE: Now, this is a good, clear example of what this rush, rush, rush business is, in my opinion. Now, this material is coming to us so fast that this is not—to me, this taxation is a blind pig somewhere that I know very little about, and I will admit this, and I don't frequent blind pigs, either; (laughter) but I want to tell you this: that I had to put this amendment in until I knew what we were doing, and I am not so sure that I am so sure of what we are doing yet. But this is a real indication to me. Now, like yesterday, and with all of the reports that Mr. Austin gave—and I respect his judgment tremendously on taxation—I did not know exactly what I was doing and maybe I am the only one that didn't know what they were doing, but this is because I didn't get the minority report until after the minority had started their report. I didn't get a chance to study it. If this is any indication as to what is going to continue, I am sure that there are maybe many of us that will not be voting too intelligently.

Now, if this amendment that I have just offered does not prohibit in the future, before this convention is over, in the discussion on the local government committee proposals the opportunity to offer another amendment which will prohibit a mother city from taxing anyone outside of its own residents, then I will withdraw it; but if it does not, and I do not get this guarantee, then I won't withdraw it.

CHAIRMAN BENTLEY: Does the gentleman desire to yield to the chairman of the local government committee?

MR. SHARPE: I will be glad to yield to Mr. Brake first and then I will.

CHAIRMAN BENTLEY: The gentleman yields to Mr. Brake.

MR. BRAKE: I am afraid, Mr. Sharpe, that you have 2 issues completely confused. What you have offered has nothing to do with whether a mother city may tax the residents of outlying territories. What you are doing is saying any tax in the mother city may be a graduated income tax. You are striking out what we have said that any tax in the mother city may not be a graduated income tax. Your other issue of whether the city can tax nonresidents is not involved in what you propose at all.

MR. SHARPE: I begin to see the light. I am a little bit thick headed, maybe, today. We have had several night meetings here lately. As I am assured, then, Mr. Brake, that later I can offer this again, I withdraw this amendment now and will offer it later on in local government to prohibit the city from—or attempt to prohibit a mother city from taxing its outstate or outcity residents.

MR. BRAKE: All you are going to need is votes. (laughter)

MR. SHARPE: That is all I am going to need.

CHAIRMAN BENTLEY: The gentleman from Howell has the floor. Does he desire to yield further?

MR. SHARPE: I will yield to my good chairman on the local government committee.

CHAIRMAN BENTLEY: Mr. Elliott.

MR. A. G. ELLIOTT: Mr. Sharpe, I think your point is exactly the point that Mr. Kuhn was making, and I assured Mr. Kuhn that his amendment would be in order in the discussion of the local government article, and I assure you of the same thing.

MR. SHARPE: I wondered; it would be between Mr. Kuhn and myself. Mr. Kuhn may have been a little sharper this morning than I was. I did not quite catch the point so soon. I would like to yield to my friend over here.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from St. Clair Shores, Mr. Snyder.

MR. SNYDER: Thank you, Mr. Chairman and Mr. Sharpe. I do not have any strong feelings regarding where the difficult problem that we have before us will be settled. I feel that the conclusion that we arrive at, if we have the opportunity to debate and present our points of view in an uninhibited atmosphere, will be fine, as long as we have that opportunity; so I will withhold any strong feeling that I have of insisting that this matter be resolved at the present time with the assurance that we will have the opportunity to debate and speak on this matter at a later point, and certainly my withdrawal at this particular time will not be prejudicial to my position in the future. Thank you.

CHAIRMAN BENTLEY: The gentleman from Howell still retains the floor.

MR. SHARPE: I will at this time be glad to withdraw my amendment.

CHAIRMAN BENTLEY: Without objection it is withdrawn. The chairman of the committee, Mr. Brake.

MR. BRAKE: Mr. Chairman, I move the committee rise.

CHAIRMAN BENTLEY: Without objection, the motion prevails and the committee will rise.

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

PRESIDENT NISBET: Mr. Bentley.

MR. BENTLEY: Mr. President, the committee of the whole has had under consideration certain items on which the secretary will give a detailed report.

PRESIDENT NISBET: Mr. Chase.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 51**, has considered several amendments thereto and has come to no final resolution thereon. This completes the report of the committee of the whole.

Mr. Elliott has asked that the following announcement be made: the committee on local government will meet at 1:10 this afternoon, a very important meeting, in room A.

PRESIDENT NISBET: The Chair recognizes Mr. DeVries.

MR. DEVRIES: Mr. President and fellow delegates, the committee on administration has a very important meeting at 1:15 on the post constitutional convention budget. I urge all the committee members to attend.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Mr. President, a lot was said this morning about creating a new image, so I might tell you that if you want a truly new image I would consider making myself available as the candidate for governor on the Republican ticket. (laughter)

PRESIDENT NISBET: The chair recognizes Mr. Leppien.

MR. LEPIEN: On behalf of the committee on miscellaneous provisions and schedules, I wish to announce that the subcommittee chairman on eminent domain is in the building although he was not in attendance this morning. We will have the meeting with the highway commissioner and other personnel from that department and it is urged that all members of the committee on miscellaneous provisions and schedule meet immediately following this session.

PRESIDENT NISBET: The Chair recognizes Mrs. Hatcher.

MRS. HATCHER: Mr. President, I would like to move that we recess until 2:00 o'clock.

PRESIDENT NISBET: The question is on the motion of Mrs. Hatcher. All in favor say aye.

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

[Whereupon, at 12:05 o'clock p.m., the convention recessed; and, at 2:00 o'clock p.m., reconvened.]

The convention will please come to order.

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

During the recess Mr. Bledsoe filed with the secretary a request for leave of absence from the afternoon session of

today and the session of tomorrow, Friday, since he must be in Marquette to fill a court obligation which was contracted for prior to the convention.

PRESIDENT NISBET: Without objection Mr. Bledsoe will be excused.

The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, I move the convention resolve itself into committee of the whole for the consideration of items on the **general orders** calendar.

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

The motion prevails. Mr. Bentley.

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

CHAIRMAN BENTLEY: The committee will be in order.

MR. DADE: Mr. Chairman.

CHAIRMAN BENTLEY: For what purpose does the gentleman from Detroit wish to speak?

MR. DADE: A point of information, Mr. Chairman. I am wondering if the bell that rings to summon us back could — if there could be a perceptible pause between the time that the secretary says, "Are you ready to vote" and the bell rings. There may be certain business we may be engaged in from which we cannot come back with rapidity. (laughter)

CHAIRMAN BENTLEY: I think the secretary should answer that one in person, if he will, please.

SECRETARY CHASE: Thank you, Mr. Dade, for the suggestion, and we will do our best to comply with the request.

CHAIRMAN BENTLEY: The pending business before the committee is **Committee Proposal 51**, as amended. For what purpose does the gentleman from Grand Rapids, Mr. DeVries, arise?

MR. DEVRIES: A point of information. The committee on administration 2 days ago passed a motion suggesting to the secretary that we pause 1 minute between the time the bell rings and the vote is taken. I did not have a chance to pass on the information to you.

MR. DADE: Thank you, sir.

SECRETARY CHASE: Thank you, we will observe it.

CHAIRMAN BENTLEY: For what purpose does the gentleman from Detroit, Mr. Norris, arise?

MR. NORRIS: Mr. Chairman, I would like to request personal privilege at this point to address myself to a matter which has been called to my attention in the State Journal, the Lansing newspaper.

CHAIRMAN BENTLEY: Mr. Norris, the secretary believes that you should raise the point of personal privilege in the convention rather than in committee of the whole.

MR. NORRIS: All right.

CHAIRMAN BENTLEY: Are there amendments to the second paragraph of Committee Proposal 51?

SECRETARY CHASE: Mr. Snyder offers the following amendment:

1. Amend page 2, line 1, after "state" by striking out the balance of the line.

CHAIRMAN BENTLEY: The gentleman from St. Clair Shores is recognized in support of his amendment.

MR. SNYDER: Thank you, Mr. Chairman. I had the opportunity during my lunch period to take in some of the deliberative qualities I thought that this convention required, and I reviewed the matter that we had before us shortly before our recess and, in reviewing the matter, I was of the opinion that we had before us a 2 part problem; and the original decision that I made this morning to back off my problem I felt was one that did not recognize the first part of the problem. It is my feeling that we have before us, one, the question of whether a municipality shall tax the residences of nonresidents on their tax and, two, whether the municipality shall be restricted in its right to levy a certain tax.

Now, it was my intention this morning to take care of the first part by referring it to the committee on local government. I feel confident that I will be granted an audience and be given an opportunity to express to the 143 delegates other

than myself of this convention what I feel are some of the problems that we may have should the municipality be permitted to tax nonresidents. This, however, did not take into consideration the other part of the problem, and I must go on record to say that I feel at this time we as delegates have an obligation to all of the people of Michigan that we must recognize some of the problems they have in their immediate communities. I do not feel that we should write anything into the constitution so restrictive that should they desire to raise money within their communities properly they should be restricted in this sense.

So in view of this 2 hour deliberation I have had since our recess, I have resubmitted the amendment that Mr. Sharpe submitted and withdrew, and I urgently ask that the delegates to this convention separate the problem and give the suburban communities the opportunity to express their point of view to the committee on local government but, at the same time, recognize the other segments that need the money and remove from the proposed committee report the restrictive language. Thank you very much.

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

MR. VAN DUSEN: Mr. Chairman, I think the point was very clearly made this morning that the only question here is whether, having prohibited a graduated income tax for the state, you want to permit it at the local level. The committee would oppose it.

CHAIRMAN BENTLEY: The question is on the amendment offered by the gentleman from St. Clair Shores, Mr. Snyder. As many as are in favor will vote aye. Those opposed will vote nay.

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

SECRETARY CHASE: Mr. DeVries and Mrs. Koeze offer the following amendment:

1. Amend page 1, line 20, after "applied.", by inserting "Exemptions from taxation may be granted only by general laws. Statutes providing for exemptions from taxation may be altered or repealed, except those statutes exempting from taxation real and personal property used exclusively for religious, educational, charitable or cemetery purposes, and owned by any corporation or association organized and conducted exclusively for one of those purposes and not operating for profit, or by an association, corporation, individual or other legal entity in trust for the use and benefit of any religious congregation or for the support, aid and maintenance of any hospital, almshouse, school, seminary, church, parsonage, or for burial grounds or other religious, educational or charitable purposes within this state."

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Rapids, Mr. DeVries.

MR. DEVRIES: Mr. Chairman, I would like permission to approach the rostrum to withdraw the amendment and offer a substitute without yielding the floor.

CHAIRMAN BENTLEY: Without objection, the permission will be so granted. The gentleman from Grand Rapids, without objection, has withdrawn the amendment and by unanimous consent offers the following as a substitute, which the secretary will read.

SECRETARY CHASE: Mr. DeVries and Mrs. Koeze offer the following amendment:

1. Amend page 1, line 20, after "applied.", by inserting "Property held by a nonprofit corporation, association or legal entity and used exclusively for religious, educational, charitable or cemetery purposes shall be exempt from real and personal property taxes."

CHAIRMAN BENTLEY: The gentleman is recognized in support of his amendment.

MR. DEVRIES: Mr. Chairman and ladies and gentlemen of the committee, the first amendment that was withdrawn was the language of Delegate Proposal 1476. I received a good many notes from delegates who said they were willing to support the concept but that the language was too wordy and that it should be reduced, and that is what Mrs. Koeze and I have attempted to do in this substitute amendment. I would

just like to make a brief statement on it. I hope we keep our debate on this short. I think you know exactly what the amendment proposes to do.

Michigan's property tax laws now exempt from taxation certain real and personal property owned by religious, charitable and educational institutions. The adoption of this amendment by the committee would give constitutional status to the exemptions that are now provided by statute. The statutory exemptions to charitable and educational organizations are properly justified, I feel, on the grounds that these institutions supply necessary services which the state would have to provide if they were not provided by these institutions. The exemption for religious organization is based upon the wise judgment that morality is necessary for the stability of government and religious organizations directly advance morality and thereby further the welfare of this state.

The same reasons which justify statutory exemptions are even more valid in support of constitutional exemptions. The constitution properly should concern itself with fundamental things. Protection of religious, educational and charitable institutions from taxation guarantees that the people's wholesome interest in these areas will not be encroached upon by any future legislative action. Constitutional status to these exemptions is consistent with the historical concern of the people that religious, educational and charitable institutions be encouraged and advanced whenever possible. I think that most of you are aware of the periodic attempts to pressure the legislature into discontinuing these worthwhile exemptions. Should such an attempt succeed, it would seriously affect the work of these now exempt institutions. While we do not believe that the legislators now in office will yield to attacks on these exemptions, it does not follow that some legislature in a future time might not use the power to tax to harass these institutions.

This amendment is very similar to a provision adopted by the New Jersey Constitutional Convention of 1947. This amendment is not inconsistent with the present uniformity provision of the state constitution. All it would do is to take a sound principle now expressed in statutory language, a principle which has withstood the test of time, and incorporate that principle into the constitution where it properly belongs. I respectfully urge the committee of the whole to favorably consider adopting this amendment to the committee proposal.

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

MR. VAN DUSEN: Mr. Chairman, quite obviously the committee has no quarrel with the objective of this amendment. The amendment in its original form was submitted to and considered at length by the committee, and the committee believed that the proposal was statutory in character and for that reason should not be included in the constitution. In its present form it is less objectionable from that standpoint, the wording having been reduced to a more concise statement of principle.

I think that gives you the background of the committee consideration of the matter. I am unable to speak further for the committee with respect to it. Perhaps Mr. Brake might wish to add something further.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, the gentleman from Stanton, Mr. Brake.

MR. BRAKE: Mr. Chairman, ladies and gentlemen, there was absolutely no difference of opinion in the committee about the propriety of this, of these exemptions. I think every member of the committee agreed that the exemptions are proper and that they should be continued. It was the thinking of the committee that they were properly legislative. They are legislative now.

I call attention to the fact that these particular exemptions are among — my memory may be wrong — but 15 or 20 listed exemptions from taxation. Very likely Dr. DeVries is right in saying this is the most important of all, but there are some others that are rather close to people. A certain amount of your household goods are exempt. Certain animals that the farmer has which are supposed to furnish him with a

livelihood are exempt, and there are any number of other exemptions, all statutory. The only issue before us at all is whether or not these should be kept statutory or whether they should be written into the constitution.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Bay City, Mr. Higgs.

MR. HIGGS: I have a question for Delegate DeVries. Inasmuch as this amendment would incorporate by reference 15 to 20 statutes, if I understand correctly, into the constitution, I wonder whether you have a list of those statutes that we would be writing in or whether we could be supplied with the list. Whenever embarking upon an incorporation by reference, I really do think it is very important that we know exactly what we are doing.

CHAIRMAN BENTLEY: The gentleman from Bay City yields to the gentleman from Grand Rapids for a reply.

MR. DeVRIES: Mr. Chairman and Delegate Higgs, I don't think there is any reference involved in the amendment. Let me read it again. It is not 1476; it is the amendment that we are considering.

[The amendment was read by Mr. DeVries. For text, see above, page 897.]

I think it is more a statement of principle, of philosophy, Mr. Higgs, than it is of reference to other legislation.

MR. HIGGS: One further question, if I may. Delegate DeVries, could you answer this question. Is the substance of the amendment which is being offered the existing statutory law?

MR. DeVRIES: Mr. Chairman and Delegate Higgs, I think it is the intent of the existing statutes, yes sir.

MR. HIGGS: I wonder then, if I could direct one further question to Delegate Brake?

CHAIRMAN BENTLEY: The gentleman may yield to whom he desires.

MR. HIGGS: Were your comments, Delegate Brake, directed at the amendment which has been read or the amendment which we have on our desks?

MR. BRAKE: The only thing that is before us now is the substitute amendment. If I am anticipating what you are thinking, I have not, of course, had time since this substitute was offered to get the statute and check and see if the wording is the same. Certainly the intent is the same and undoubtedly covers the same subject matter as the statute.

MR. HIGGS: Thank you.

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

MR. EVERETT: Mr. Chairman and delegates, I rise to support the amendment offered by Delegates DeVries and Koeze. I would suggest that this is not purely a statutory matter in that it does limit the right of the legislature to act to remove the exemptions. Dr. DeVries has indicated that it certainly is doubtful that such action would be taken, but it is a clear declaration on the part of the people of the state that they may not take this action whether they wish to or not.

As to the personal property exemptions which Mr. Brake has mentioned, it is true that they are now enumerated by statute but, where we have previously in this committee and in the convention adopted the principle of personal property exemptions, we have simply left to the legislature the idea of spelling out which items will fall within the exemptions. We have already acted to accord exemptions not from taxation—don't misunderstand me—but, as a matter of principle, the type of exemption which he has suggested we have already accorded in the area of real and personal property, exemption from civil process rather than taxation. I think that the amendment does offer a valid constitutional ground for enactment, and I would ask that we do enact it.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Hodges.

MR. HODGES: I just want to question Mr. DeVries. Mr. DeVries, if a church was to own, say an office building in which, maybe, they just had part of their offices there and there was profit being taken off it, yet the profits were to go

to the church or whatever nonprofit group, would this fall within the purview of this exemption?

CHAIRMAN BENTLEY: The gentleman from Detroit yields to the gentleman from Grand Rapids for the purpose of a reply.

MR. DeVRIES: Mr. Chairman and Delegate Hodges, again let me read the language. "Property held by a nonprofit corporation . . ." and so forth "... and used exclusively for religious, educational, charitable . . . purposes." Exclusively. I would go so far on this as: my church may purchase property in advance and everyone expects that we might gross something, and taxes are paid on this property until a church is established; so, I maintain that it has to be exclusively used for religious or educational purposes.

CHAIRMAN BENTLEY: Would the gentleman from Detroit care to yield to the gentleman from Birmingham for further reply?

MR. HODGES: Yes, I yield.

CHAIRMAN BENTLEY: The gentleman is recognized.

MR. VAN DUSEN: Mr. Chairman and Mr. Hodges, I would say that the question that Mr. Hodges raised is one of the things that concerned the committee when confronted with Delegate Proposal 1476, and the amendment in its present form has resolved that question at least in my mind.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. King.

MR. KING: Mr. Chairman, my question was similar to the question raised by Delegate Hodges. I have some concern about this particular type of problem. At the present time, as you know, a religious fraternal organization has purchased yankee stadium and then sold it back or, rather, leased it back to the yankee baseball organization in order to avoid taxes. This is the sort of thing which I think is very dangerous and I am not quite as sure as the delegate from Birmingham that this could not be construed under the language that Delegate DeVries submits by way of amendment. I would be glad to yield to Delegate DeVries if he wants to clarify that particular point.

CHAIRMAN BENTLEY: The gentleman from Pontiac yields to the gentleman from Grand Rapids for a reply.

MR. DeVRIES: Mr. Chairman and Delegate King, again I can just say that this is a statement of intent, a philosophical restriction on the legislature: what it can do and what it cannot do. And, again, it says "exclusively" used for religious, educational and charitable institutions. I do not know how you could classify the yankee stadium; how you think you could classify it as religious, educational or charitable, or used exclusively for those purposes.

CHAIRMAN BENTLEY: The gentleman from Pontiac retains the floor.

MR. KING: I will yield to Miss Donnelly, who indicates that she could do that.

CHAIRMAN BENTLEY: The gentleman yields to the lady from Highland Park.

MISS DONNELLY: Well, I think a lot of people think that aiding athletic endeavor is aiding education, and I think they could aid athletic endeavor as going toward education.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Ostrow.

MR. OSTROW: I think that we straightened out this problem following the Graystone ballroom case. At one time in the state of Michigan, any property owned by a university or a charitable organization was exempt from taxation. The University of Michigan owned the land on which the Graystone ballroom in the city of Detroit is now located, and after the lessees of the Graystone ballroom were successful after a decision by the supreme court, in avoiding real estate taxes on the ballroom, the legislature changed the law so that from that time on only property actually used for the particular religious or charitable purpose was exempt.

CHAIRMAN BENTLEY: The Chair recognizes the lady from Detroit, Miss McGowan.

MISS MCGOWAN: Mr. Chairman and members of the committee, I rise to speak in favor of the DeVries and Koeze amendment and to ask your support of this amendment. We

believe that the basic concept of tax exemption is constitutional for, after all, our constitution should lay down broad, general principles. The matter of tax exemption is not a statutory question in the sense that if the state wishes to proclaim the broad, general principle that property owned by and devoted to charitable and religious purposes should be tax exempt and it cannot be done, there is no reason why tax exemption for religious and charitable institutions should not be placed in the constitution. The extent to which this matter may be statutory is as to what functions of the religious and charitable institution shall be tax exempt. For example, if a religious or charitable institution owned stock in General Motors on which it received dividends, there is a question as to whether that income should be tax exempt; or, if a charitable institution has a private enterprise, say, someone gives them a factory where they manufacture belts, there is a question as to whether that item should be tax exempt.

That aspect of tax exemption for charitable or religious purpose is statutory, but the broad, general principle that the property of charitable and religious institutions should be tax exempt is a basic constitutional provision, and I would like to go on record as being in favor of all churches and charitable organizations.

We feel that the DeVries and Koeze amendment would most assuredly give our churches and charitable organizations the measure of security they need to augment the work they are doing for the betterment of society, and I would ask your support of this amendment. Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Lansing, Mr. Wanger.

MR. WANGER: Mr. Chairman, I am sure every delegate is in favor of the principle of tax exemption of property which Mr. DeVries' and Mrs. Koeze's amendment would put into the constitution. I would think, however, that we should realize clearly if we adopt this, what we will in effect be doing. In addition to making it a constitutional mandate, we will be making the supreme court of the state rather than the legislature the interpreter of that principle as to just what property used exclusively for educational, religious or charitable purposes might be. I am sure that we all agree with that principle as we interpret it, but I would wonder if it might not be best to leave this to the legislature unless there is serious danger or might be serious danger in the future of these exemptions being abolished by the legislature. I would very much like to hear more if there is such danger at the present time or if there might have been in the recent past.

CHAIRMAN BENTLEY: Does the gentleman wish to yield for the purpose of a reply to the gentleman from Grand Rapids?

MR. WANGER: Yes, sir.

MR. DeVRIES: Mr. Chairman and Delegate Wagner, I think there is serious danger that in the next 10 years or 20 years there might be a significant attempt in the legislature to do this very thing. There have been attempts in the past few years to do this. I would like to have it stated in the constitution as a principle this convention favors a tax exemption for these institutions, as a statement, a philosophical statement, which is what we are doing. The legislature can interpret this; so can the supreme court. They do this with other laws and constitutional provisions as well.

MR. WANGER: I yield the floor.

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

MR. AUSTIN: Mr. Chairman, I would like to propose an amendment to the amendment suggested by Mr. DeVries.

SECRETARY CHASE: Mr. Austin offers the following amendment to the DeVries-Koeze amendment:

1. Amend the amendment at the end thereof, after "taxes" by inserting a colon and "Provided, There is no practice of discrimination against persons on account of race, creed or national origin".

CHAIRMAN BENTLEY: The gentleman is recognized in support of his amendment.

MR. AUSTIN: Mr. Chairman, I want to apologize for the form of the amendment. I had prepared an amendment of this sort in better form some time ago but for some reason my

filing system is not working properly, so this is a rather hastily drafted amendment.

I appeared before the committee on legislative powers to discuss this subject of constitutional amendments for charitable organizations and at that time it was the feeling of that committee that this was more in the nature of a legislative matter than constitutional. The committee on finance and taxation came to the same conclusion. However, if this committee is going to consider this matter at this time, I think it is appropriate to make sure that this matter is taken up at the same time.

Tax exemption is a privilege. It is in the form of governmental subsidy to organizations rendering public service. The subsidy is in the form of furnishing government services free of charge. The cost of the government service is furnished free of charge, is paid out of tax revenue in which all persons participate regardless of their race, creed, color, or national origin. In other words, there is no discrimination of this kind in the payment of taxes. The tax money raised is used in support of these organizations through governmental subsidy or tax exemptions. Now I suggest that if tax money is to be used in the form of subsidy for these organizations, it is not fair that they be permitted to discriminate against persons on account of race, creed or color.

Now, to be more specific, there has been a rather serious problem among hospitals as to discrimination against persons on account of race, creed and color. These hospitals are granted property exemptions. They are granted exemptions from sales tax. They are granted exemptions from all forms of state taxes and, I might add, they are also granted exemptions from federal taxes and, in addition, contributions are made to these organizations that are tax exempt, or at least are tax deductible. The result is that there is a considerable amount of tax money supporting these institutions, and, if we are to grant constitutional exemption to them, I am certain that there should be a proviso that there be no discrimination on the basis of race, color or creed, and I move that the amendment to the amendment be adopted.

CHAIRMAN BENTLEY: The question is on the amendment offered by Mr. Austin to the amendment offered by Mr. DeVries and Mrs. Koeze, and the Chair will only entertain comment on the Austin amendment. Does the gentleman from Detroit care to yield to the gentleman from Grand Rapids?

MR. AUSTIN: I would be very happy to.

MR. DeVRIES: Mr. Chairman, ladies and gentlemen of the committee, I have no objection to this proviso. However, it seems to me that we provided a strong enough civil rights section in the bill of rights. I wonder if it is really relevant to the body of the amendment, Mr. Austin.

MR. AUSTIN: Mr. DeVries, Mr. Chairman, I do believe it is absolutely necessary, because exemptions are being granted now to these institutions and they are discriminating, and it is my firm hope that if we are going to go any further in granting exemptions, certainly in providing for these exemptions, constitutional limitation and constitutional authority, that there ought to be this proviso.

CHAIRMAN BENTLEY: The gentleman yields for the time.

MR. DeVRIES: Mr. Chairman and Delegate Austin, now that I believe I understand your amendment, I am opposed to it.

CHAIRMAN BENTLEY: Does the gentleman from Detroit wish to speak on the Austin amendment? Mr. Downs, Mr. Stevens was recognized first.

MR. DOWNS: I will be glad to yield to Mr. Stevens.

CHAIRMAN BENTLEY: The gentleman from Detroit, Mr. Downs, yields to the gentleman from Detroit, Mr. Stevens.

MR. STEVENS: Mr. Chairman and members of the committee, we thought we took care of this in the declaration of rights. We spent enough time on it. It was passed here unanimously. It would not seem to me to be necessary to repeat this constantly through the constitution. I believe the nondiscrimination provision of the declaration of rights amply takes care of all these things.

CHAIRMAN BENTLEY: The gentleman from Detroit, Mr. Downs, retains the floor.

MR. DOWNS: I would like to speak in favor of the Austin amendment to the amendment and if, without violating the rules, Mr. Chairman, I can say, parenthetically, in support of the amendment itself. I believe that this is a very sound provision. It is clear cut language and I just hope that Mr. DeVries will reconsider his earlier statement on the subject matter.

This matter of civil rights and equal opportunity is of such vital importance that I would rather it were stated once too often than once not often enough. This applies to the area of charitable and religious organizations, and I believe Delegate Wanger earlier raised the question of assuring an agency was charitable. I believe that the Austin amendment does make that assurance, and I feel that the feeling of the convention is that we certainly do not want to tax churches. This statutory right very properly should be frozen into the constitution.

I think the practical question that the amendment deals with is in the area which is not strictly a church service as such but gets into the area of a charitable function that may not be sponsored directly by a specific church but a nonprofit charitable organization that may branch over many non denominational or other type of agency. I think this is a good protection and I urge support of this and of the DeVries amendment, also.

CHAIRMAN BENTLEY: Does the gentleman from Lansing, Mr. Erickson, desire to speak on the Austin amendment?

MR. ERICKSON: I just want to address the committee's attention to the word "creed." I am just fearful that if we let this thing go through that perhaps the Seventh Day Adventists or some other group could go into the Episcopal church and sort of take over, and I don't think that is the intention at all.

CHAIRMAN BENTLEY: Does the gentleman from Lansing desire to yield to the gentleman from Detroit?

MR. ERICKSON: I yield to the gentleman from Detroit.

MR. AUSTIN: Mr. Chairman, I have found the original draft of this amendment which I proposed to the committee on legislative powers, and I would like to read it because I think this will take care of some of the apprehension some of the delegates have.

No charitable, educational or civic organization, otherwise qualifying as a nonprofit institution, which practices discrimination against persons on account of race, creed, religion, national origin, or ancestry in furnishing benefits, services, training or employment, shall be allowed an exemption from taxation: Provided, That this section shall not deprive religious organizations from giving preference, if they desire, to members of their own sects.

CHAIRMAN BENTLEY: Does the gentleman from Lansing desire to proceed? Mr. Tubbs.

MR. TUBBS: Is that offered as a substitute, Mr. Chairman, for the previous Austin amendment? I think it puts an entirely different light on our proposal.

CHAIRMAN BENTLEY: The gentleman from Detroit asks permission to offer the following as a substitute for the amendment to the amendment, which the secretary will read.

SECRETARY CHASE: Mr. Austin withdraws his previous amendment to the DeVries-Koeze amendment, and offers the following amendment to the amendment:

1. Amend the amendment at the end thereof, after "taxes," by inserting "No charitable, educational or civic organization, otherwise qualifying as a nonprofit institution, which practices discrimination against persons on account of race, creed, religion, national origin or ancestry in furnishing benefits, services, training or employment, shall be allowed an exemption from taxation: Provided, That this section shall not deprive religious organizations from giving preference, if they desire, to members of their own sects."

CHAIRMAN BENTLEY: Without objection, the amendment the secretary has just read will be accepted as the pending amendment. Does the lady from Highland Park desire to speak on the Austin amendment?

MISS DONNELLY: Well, I desired to speak on the first

Austin amendment, in support thereto, and, if I understand all the ramifications of the second, I would support it.

CHAIRMAN BENTLEY: Does the gentleman from Grand Rapids desire to speak on the Austin amendment?

MR. TUBBS: I would say that this is still pretty restrictive, Mr. Chairman. I know of church organizations where separate organizations are formed to take care of elderly people. They do discriminate in a way; they give preference to the people of their own denomination. I think this amendment would bar that sort of practice.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Norris, to speak on the Austin amendment.

MR. NORRIS: Mr. Chairman, a point was raised with regard to whether or not there is a political or civil right involved—the reason I say that that point was raised, I think Mr. Stevens made the observation that in his judgment the equal protection clause which was passed by this convention, at least its first reading, would cover the matter of the Austin amendment. I raise the question as to the validity of Mr. Stevens' observation. I raise the question because I don't believe that there is a political or civil right not to be discriminated against in any activity of a nonprofit or charitable institution. There is a very strong question in my mind as to whether that is covered, and, therefore, I think that the Austin amendment would be very much before the house as far as the merits of it are concerned.

I am not too sure, however, that the substituted Austin amendment doesn't raise more problems than the original Austin amendment, and I would ask that perhaps some reconsideration be made on that point and perhaps a stronger case could be made for the original—if only improvised—language that he offered.

CHAIRMAN BENTLEY: The Chair has ruled, Mr. Norris, that on the unanimous consent request by Mr. Austin, the original amendment was withdrawn and the language substituted, and that is the pending business before the committee. The Chair recognizes the gentleman from Birmingham, Mr. Van Dusen.

MR. VAN DUSEN: I have a question for Mr. Austin, Mr. Chairman. The language which we are currently considering is language which I have only heard the secretary read and have not had any opportunity to consider it in detail. Mr. Austin, is your amendment in effect a prohibition against action by the legislature granting tax exemption to any institution practicing discrimination? Is that its general sense?

CHAIRMAN BENTLEY: The gentleman from Birmingham yields to the gentleman from Detroit.

MR. AUSTIN: That is the intent, Mr. Van Dusen.

MR. VAN DUSEN: If I may continue, Mr. Chairman, then, your amendment does not purport to grant any exemption; your amendment simply restricts the legislative power to grant exemptions. Is that correct?

MR. AUSTIN: Exactly, Mr. Van Dusen.

CHAIRMAN BENTLEY: Does the gentleman from Detroit, Mr. Mahinske, desire to speak on the Austin amendment?

MR. MAHINSKE: Yes, I would like to ask Mr. Austin a question here. From the reading of the amendment, it seems to me that this could be interpreted to go into the very functions of the religions themselves as opposed to each other.

Now, if you are proposing that they may not discriminate for any purpose, that is including a religious purpose. Now where do we draw the line here? We have various religions where no one may speak from the pulpit except an ordained minister or a priest. We have other religions that any member of the congregation may speak from the pulpit. Now, does this mean that, the intermingling of these people, the fact that they will not be able to speak, will be a possible discrimination?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Detroit for a reply.

MR. AUSTIN: Mr. Chairman, I think Mr. Mahinske should hear that amendment again. I think he is a little confused. Would you mind reading it?

CHAIRMAN BENTLEY: Without objection, the secretary will read the pending Austin amendment.

SECRETARY CHASE: May the secretary inquire first, Mr. Austin, if this is the language of Delegate Proposal 1448?

MR. AUSTIN: That is correct.

SECRETARY CHASE: This is the text of it:

[The amendment was again read by the secretary. For text, see above, page 900.]

MR. AUSTIN: Mr. Mahinske, does that clear the matter up for you?

MR. MAHINSKE: If the legislature should construe this type of activity as discrimination, then the legislature is not permitted to give these various religious groups any exemptions. Is this correct?

MR. AUSTIN: Only in connection with those services that are not religious, where they discriminate, do discriminate on account of race and so on.

MR. MAHINSKE: "And so on" includes religion. Now, let's assume that we have a hospital that is owned by a religious organization where you are required to go to mass to be a patient in this hospital; now if you are not of the faith of that particular hospital and you refuse to go to mass, this is a refusal on religious grounds; then aren't you being discriminated against or could this not be construed as being discriminated against?

MR. AUSTIN: Mr. Chairman, Mr. Mahinske, you are raising a question which, I think, the amendment seeks to avoid.

MR. MAHINSKE: Well, if your amendment does not meet any of the restrictions brought in here—in other words, these possibilities that I am mentioning are not brought within the purview of your amendment.

MR. AUSTIN: Mr. Chairman, Mr. Mahinske, I will go so far as to say that if the amendment as drawn creates the problem that you have raised, I would certainly be willing to have any change made in the draft which will accomplish the protection that you would like to have.

MR. MAHINSKE: Well, I am also thinking of some of the non Christian religions that, on the basis of sex, divide the congregation. Now, does this feature enter in here? Are these people to lose their exemptions which they have today because their congregation is divided along the lines of sex?

MR. AUSTIN: We are referring only to discrimination in supplying benefits, service, training or employment.

MR. MAHINSKE: Well, isn't religion itself a benefit to the people?

MR. AUSTIN: That would not be my interpretation.

CHAIRMAN BENTLEY: The Chair would inquire of the gentleman from Detroit, Mr. Mahinske, there are 2 other delegates who are seeking recognition: the gentleman from Grand Rapids, Mr. DeVries, and the gentleman from Birmingham, Mr. Van Dusen. Do you desire to yield to either one of them?

MR. MAHINSKE: I will yield to either of them.

CHAIRMAN BENTLEY: The Chair will recognize the gentleman from Birmingham, Mr. Van Dusen.

MR. VANDUSEN: Mr. Chairman, I have another question for Mr. Austin. I think we are suffering here somewhat from the fact that this is a rather novel concept than one which many of us, perhaps, considered in relation to the proposal of the committee on finance and taxation which is now before us. Mr. Austin, was your proposal referred to a committee and considered by a committee?

MR. AUSTIN: Mr. Chairman and Mr. Van Dusen, my proposal was submitted to the committee on legislative powers. I even appeared before that committee and made a presentation, a written presentation. Later the matter was referred to the committee on finance and taxation. The committee on finance and taxation considered the matter of exemptions for charitable organizations at a time when I was absent. When I returned to the committee, I was informed that the committee had decided that the matter of exemptions for charitable organizations was legislative and not a constitutional matter

and it, therefore, suggested that it be referred to the legislature and, at the time, I think I can remind you that I said I had an additional amendment to that, provided we were going to consider it; and, since we were not going to consider it, I would not raise my issue.

I feel the same way here. Since this matter has come up before this committee, I think it is appropriate to consider this along with it. Had this proposition not come up, I would not have offered—I was not even prepared for it, because I did not realize it was coming up.

CHAIRMAN BENTLEY: The gentleman from Birmingham has the floor.

MR. VANDUSEN: Might I ask, Mr. Chairman, if any of the committee on legislative powers would like to indicate the nature and extent of their consideration and their reaction to this?

CHAIRMAN BENTLEY: The Chair will advise the gentleman from Birmingham that the chairman of the committee on legislative powers, the delegate from St. Louis, Mr. Hoxie, is seeking recognition. Do you yield to him?

MR. VANDUSEN: I will yield to him, Mr. Chairman.

MR. HOXIE: Mr. Chairman and fellow delegates, Mr. Austin did state correctly that he appeared before our committee on the proposal. I would also like to advise the delegation that at the time of the consideration of the subject matter before us, it was discovered, in the opinion of our committee, that this was not a proper subject under our rules of assignment of responsibility and work of the convention. We were only dealing with that section of the constitution which pertained to exemptions from execution which we had already passed. Mr. Austin was advised that we did refer the proposal to the finance and taxation committee where we felt it properly belonged. That was several weeks ago. I believe Mr. Austin was advised in the hearing before our committee that that was our finding.

Now, I am a little concerned with the amendment. He refers to religious organizations. I can think of many other types of organizations that are nonprofit organizations. For instance, I happen to belong to the masonic lodge and in the city of Alma we have a masonic home. We have a hospital in connection with that. The individuals that live in that home are selected because of membership in the masonic lodge. Not all members of the masonic lodge are accepted in that home and there are certain restrictions such as giving up any property that they have and conveying it to the home.

Now, I am just wondering whether or not we are going to the point in this matter of discrimination, and we discriminate in that institution because you have to be a member of the masonic lodge to be there to begin with; we do not hold the institution out as far as its hospital for public use; it is for the use of our own organization, and when we say nonprofit organizations, do we have rights, do we have the privilege of using those? And may I say, in addition to that, that every member of the masonic lodge in the state of Michigan contributes, in addition to his regular dues for maintenance of his local lodge, an annual amount toward the support of this home. I am only using this as an example, because I know there are many such institutions. We have a gleaner home run by the gleaner organization. Would they be considered discriminatory if a nonmember of that home wanted to use their facilities, wanted to live in that home?

It is my understanding that what Mr. Austin was referring to was that if they discriminate under the terms of this language, then they would lose any benefits as a nonprofit corporation in the way of taxes, and I would like to ask Mr. Austin if it is his intent that the type of organization that I referred to would be guilty of discrimination under his proposed amendment.

CHAIRMAN BENTLEY: The gentleman from Birmingham has the floor. Would he care to yield to the gentleman from Detroit for his reply?

MR. VANDUSEN: I will so yield.

CHAIRMAN BENTLEY: The gentleman will yield; however, the Chair is forced to recognize the gentleman from Grand Rapids, Mr. DeVries.

MR. DeVRIES: Well, Mr. Chairman, ladies and gentlemen of the committee, I apologize. I thought this was going to be a noncontroversial item. I think I know what the intent of Mr. Austin's amendment is, but I think when you look at the practical impact you get a little different picture. For example, the people in my church, the Christian Reformed Church, have a budget which amounts to about 10 per cent of their income. This budget is earmarked for institutions of the church. It is earmarked for Pine Rest Christian hospital, which is the third largest mental hospital in the country, privately owned. There is no discrimination against patients in Pine Rest hospital except that all of us in the church contribute to its support; so, therefore, if you are not a member of the church, you pay more money than you would if you were a member of the church. The same thing is true of the college where I teach; its tuition rates are based upon church membership and geography.

Now I think the effect of the amendment would be that somebody could come to Calvin College and say, "Well, I am not a member of this church but, nevertheless, you are discriminating against me and I want the same tuition rates." They could do the same thing at Pine Rest hospital, and Calvin College and Pine Rest hospital offer secular benefits and services and under this amendment it could be construed that way. That is why I opposed the first amendment and I oppose the second amendment.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Muskegon, Mr. Danhof, to speak on the Austin amendment.

MR. DANHOF: Mr. Chairman and Mr. Austin, originally, I am supporting Dr. DeVries' amendment, but I am wondering if we are not trying to take one right and perhaps trample it underfoot with another. I think Mr. Norris may have had the idea when he mentioned this that we are getting into something here that is extremely delicate and difficult.

Again, to reiterate somewhat what Dr. DeVries says, it was my privilege to serve on the board of a home for elderly people for a number of years. This one happened to be composed and supported by churches who were of 2 different denominations but of very similar backgrounds and, very frankly, we limited it solely to the people from those churches, first of all, and then if we had room—it was not a large institution—it was limited to people from other protestant evangelical denominations; and this, I think, is practiced not only by the particular denominations I belong to but all other religious organizations. I think of seminaries where, certainly, before you would be allowed to enter the seminary for instruction in the religion you'd have to be a member of the church.

It would appear to me that this amendment that has been offered by Mr. Austin, while it is laudable in character, I think perhaps is creating far more mountains than we are desirous of trying to climb at this particular time.

Dr. DeVries' original amendment was a direct statement stating a principle that charitable or religious organizations of whatever type or denomination or kind or creed should be granted tax privileges. I think this is a broad statement to go into the constitution. When we begin to restrict it, we find ourselves in trouble. If there could be some way that we could consider one without the other, I think this would be very beneficial and I would ask if this would be possible. Otherwise, I would feel constrained to vote against the Austin amendment to the amendment but in support of the original amendment.

CHAIRMAN BENTLEY: The Chair recognizes the lady from Highland Park, Miss Donnelly.

MISS DONNELLY: I would like to direct a question to either the chairman of the committee or to Mr. Van Dusen. I am beginning to gather that Mr. Austin's amendment was considered by this committee, and, the next question, I would like to know if the finance and taxation committee considered Dr. DeVries' amendment.

CHAIRMAN BENTLEY: The lady yields to whom?

MISS DONNELLY: To either, to the one who wishes to answer the question.

CHAIRMAN BENTLEY: The lady yields to the gentleman from Birmingham.

MR. VANDUSEN: Mr. Chairman and Miss Donnelly, the DeVries amendment, Delegate Proposal 1476, was considered at some length in the committee on finance and taxation and, as I have indicated, because of its detail, because of its reference to existing statute, because of the questions raised by Delegates Hodges and King, and for other reasons because of its general content, we considered it a statutory matter, and we adjudicated that it should be left to the legislature and should not be included in the constitution.

Mr. Austin is quite correct in refreshing my recollection when he points out that he was not there at the time this Delegate Proposal 1476 was considered and upon his return he indicated that he had had a proposal along the same line but, since we weren't going to consider putting the general question of exemptions in the detail contemplated by 1476 into the constitution, he was not going to raise the point in our committee. Therefore, the specific amendment which Mr. Austin now offers was never considered by the committee on finance and taxation. Does this give you a reasonable history of our consideration of the one and not the other?

MISS DONNELLY: Yes, thank you. In that event, since they both have to a degree or at least substantively been considered by this committee, I would speak in opposition to both amendments at this time, believing that the committee, having considered them a longer length of time, is better equipped to determine the legislativeness. I think they are both legislative. I certainly feel if one is going to be in, the one in the best interests of all in the thought of passing a constitution would be Mr. Austin's, but if—I think they are both subject to the same criticism—they are both legislative, then in that case I must oppose both of them unless, if we are going to have one, I think Mr. Austin's amendment is in better taste for the general public.

CHAIRMAN BENTLEY: Does the lady desire to yield further to the gentleman from Birmingham?

MISS DONNELLY: I would be happy to.

MR. VANDUSEN: Mr. Chairman, Miss Donnelly, I should perhaps amplify with respect to Delegate Proposal 1476 that we had it before the committee in the form in which it sits in writing on your desks. We did not have it before our committee in the form in which it has been offered by Dr. DeVries and Mrs. Koeze this afternoon and, as I indicated earlier, many of the objections which we raised with respect to Delegate Proposal 1476 have been obviated by the form of the amendment now presented by Dr. DeVries. I would not want to leave the impression that the committee was totally opposed to the present amendment because of its statutory character, because it has been reduced to a considerable extent to a statement of principle.

MISS DONNELLY: Is it a prohibition against the legislative act?

MR. VANDUSEN: Well, the DeVries amendment is a direction to the legislature that it shall grant exemptions to certain organizations with respect to certain property used exclusively for certain purposes.

The Austin amendment goes the other way. It says the legislature shall not grant exemption to certain property used by certain organizations for certain purposes if they practice discrimination.

The DeVries amendment is an affirmative direction to the legislature: you shall exempt. The Austin amendment goes in the opposite direction and says: you shall not exempt.

MISS DONNELLY: Then in effect, isn't that it?

MR. VANDUSEN: You shall not, if.

MISS DONNELLY: Yes.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Downs.

MR. DOWNS: Mr. Chairman, I think we are in a situation where we often find ourselves in the convention when we are in substantial agreement but do not know quite how to get the language. If I am so presumptuous as to say I have the feeling that the sense of the convention—and if I say that, somebody will ask me why I can never get a motion

passed—but I feel that, first, we are in agreement that churches as such should not be taxed and should have a constitutional exemption for their charitable and religious functions.

I think, secondly, there is complete agreement here that nobody wants to try to use the constitution to tell a particular church how to run its internal affairs.

I think the third point that was raised very adequately by Delegate Austin is that if we grant tax exemption, the hospital or agency of that kind getting it should not itself abuse the concept of charity by discriminating in any manner on who gets the uses of the hospital facilities. This has nothing to do with the religious functions as such.

If those 3 ideas are right, I am just wondering—I know in committee of the whole there is difficulty in recessing or adjourning, but, without going through the formalities of the committee rising and then postponing or adjourning—if there is some parliamentary move whereby we could suggest that Delegates Austin and DeVries see if they can review this matter and bring it back to us later on this afternoon; because I do feel there is substantial agreement and I am afraid we are just going to be spinning our wheels here while people are trying to get language straightened out.

That really is a parliamentary inquiry, Mr. Chairman. If I am out of order, I apologize to the committee.

CHAIRMAN BENTLEY: In reply to the gentleman's parliamentary inquiry, the Chair would rule that the matter may be passed temporarily if the committee so desires and be returned to subsequently while we are still in committee of the whole.

MR. DOWNS: Well, I, Mr. Chairman, move the matter be passed temporarily.

CHAIRMAN BENTLEY: That motion will be in order. Is there any discussion on Mr. Downs' motion? If not—

MR. CUDLIP: Mr. Chairman, I would amend the motion to move that this matter be put over until the committee of the whole meets on Monday evening and take its order there if there is something that has prior attention. We can study the matter in the meantime.

CHAIRMAN BENTLEY: The Chair recognizes the chairman of the committee, Mr. Brake.

MR. BRAKE: Mr. Chairman, I called attention yesterday to the fact there were 10 days left and we have used pretty nearly all of one of those and there are only 9 left. This whole matter of the tax committee's material is before this committee, and I propose to move before we quit this afternoon that we stay here 'til midnight if it is necessary to finish it. I don't want anything put over having to do with this committee until Monday.

CHAIRMAN BENTLEY: The Downs' motion, as the Chair understands it, was that this be temporarily postponed and we return to it a little bit later. Is that correct?

MR. DOWNS: Yes. My intent, Mr. Chairman, was "temporarily", meaning perhaps a half hour or an hour, which would give people time to review the language. I did not mean to be rigid on that at all.

MR. AUSTIN: Mr. Chairman, I have a suggestion.

CHAIRMAN BENTLEY: The Chair will recognize the gentleman from Detroit, Mr. Austin.

MR. AUSTIN: Mr. Chairman, I am wondering if we could not pass this item now and take it up in the convention after the committee rises, as an amendment to the body of the proposal.

CHAIRMAN BENTLEY: The Chair will advise the gentleman from Detroit that he can withdraw his amendment but will also require that the gentleman from Grand Rapids, Mr. DeVries, will have to withdraw his amendment, then both will be offered in convention.

Mr. DeVries does not. The pending motion is that this be temporarily laid aside and that we proceed with the next order of business. As many as are in favor will vote aye. Those opposed?

The motion does not prevail. The Chair now recognizes the gentleman from Taylor, Mr. Marshall.

MR. MARSHALL: Mr. Chairman and members of the

committee, I do not want to appear to be against churches or charitable organizations, but I am going to take issue with some of my distinguished colleagues that have spoken previously. We have spent a good deal of time discussing this issue. It is clearly—and I oppose both the amendment and the original amendment on the same basis that I opposed incorporating into this constitution a prohibition against any given form of income tax earlier today.

This is clearly, unquestionably, statutory in nature. The legislature, I would remind you, has already acted in this area; there is a statute on the books now governing this. I see no reason for us to continue to try and burden this constitutional convention or the document by spending endless hours discussing matters that have already been taken care of by the legislature, matters that can be changed and amended from time to time when necessity requires by the legislature, and it seems to me that we are wasting a lot of time on this one.

The thing that I am disturbed about is that when we take up this problem—you have heard all the discussion and I am not going to state the pros and cons of this amendment or the original amendment because it would only be repetitious—but I defy anyone to show me where this has any place in a constitution, to show me where the legislature has failed to act, and to show me why it should not continue to be able to act without it being mandated in the constitution that you have to continue what you are doing now and under no circumstances can it be revised or changed throughout the life of this constitution.

Now, the final thing that is disturbing me, and it disturbs me a great deal, is there are some important issues that I am vitally concerned with that are constitutional in nature: legislative organization, the local government report, and others; and I don't want to spend all of my time debating something that the legislature has already handled very ably, and then have someone come up and try to apply a gag rule to me when we get into the question of apportionment and debating it on this floor. So, for that reason, I am making it clear that I am not against churches or charitable organizations. I support my church financially and my wife sees that I go occasionally. I want that clear. But I am opposed to both the amendment and the amendment to the amendment and I will hope that we could end the debate here and vote on the question. Thank you, Mr. Chairman. (applause)

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Rapids, Mr. DeVries.

MR. DeVRIES: Well, Mr. Chairman and Delegate Marshall, there was a time about October 3 when I would have believed all this about statutory language, but I will only call your attention or remind you of the section on civil service. If you can convince me that that is not statutory, and that you do not support that, then I will gladly withdraw my amendment; but I have a feeling that this amendment deals with a principle, a constitutional principle, that I would like to see in the constitution. I don't think it is statutory in the nature of some of the other things that we have adopted in committee of the whole.

MR. MARSHALL: May I reply, Mr. Chairman?

CHAIRMAN BENTLEY: If the gentleman cares to yield to you. The gentleman is recognized in his own right, but it must be on the Austin amendment.

MR. MARSHALL: Well, (laughter) I think that—Mr. Mahinske said I am ahead, stop—so I will stop.

MR. DeVRIES: Mr. Chairman, in the interest of solidarity, I will yield to Mr. Marshall. (laughter)

MR. MARSHALL: Should I sing one chorus of Solidarity Forever or get him to answer the question? Dr. DeVries, it is true I supported the civil service provision. I agree with you that it is a statutory provision. It is one, though, that has been with us for a long time. Historically, it was put in by the people themselves. It was one that was necessary because the legislature repeatedly, time and time again, failed to act in this area. I say to you that the amendment that you have here, that the legislature has acted and has given no indication that it will not continue to act in this area; and where we

have a situation where there has not been a problem, I see no need to debate an endless number of hours over statutory language.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Saginaw, Mr. Leppien, to speak on the Austin amendment.

MR. LEPPIEN: The Austin amendment, in my mind, is a matter that should not be considered here. The question of the original amendment should be considered here from the standpoint that the legislature has acted but in the opposite manner.

CHAIRMAN BENTLEY: The vote now occurs on the amendment offered by Mr. Austin to the amendment offered by Mr. DeVries. Those in favor of the Austin amendment will respond by saying aye. Those opposed will say nay.

The amendment is not adopted.

A DELEGATE: Division.

CHAIRMAN BENTLEY: The gentleman from Detroit asks for division. Is the demand supported?

SECRETARY CHASE: Sufficient number.

CHAIRMAN BENTLEY: Those in favor of the Austin amendment will vote aye; those opposed will vote no.

The secretary will lock the machine.

Mr. Marshall.

MR. MARSHALL: Mr. Chairman, for the record, I did not vote for the reasons previously stated.

CHAIRMAN BENTLEY: Mr. Marshall abstains.

SECRETARY CHASE: On the Austin amendment to the DeVries-Koeze amendment, the yeas are 33, the nays are 90.

CHAIRMAN BENTLEY: The amendment to the amendment is not adopted. The pending question now recurs to the DeVries-Koeze amendment and the Chair recognizes the lady from Dearborn, Mrs. Cushman.

MRS. CUSHMAN: It seems to me that Mr. DeVries really pointed out very clearly why it is that I consider this a matter not for the constitution but a statutory matter when he pointed out that it has been a statutory matter for many years now and that it was very clear from the action of the legislature that this was a matter being adequately taken care of; and, also, the fact that we have had this discussion here today I think points out the problems that we are going to get into in trying to get too many details into the constitution. Thank you.

MR. UPTON: Point of information, Mr. Chairman.

CHAIRMAN BENTLEY: The gentleman will state his point.

MR. UPTON: Would you have the secretary please read the amendment; it has been so long since we have heard it.

CHAIRMAN BENTLEY: Without objection, the secretary will read the DeVries-Koeze amendment.

SECRETARY CHASE: The amendment is:

[The amendment was again read by the secretary. For text, see above, page 897.]

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Grand Rapids, Mr. Martin.

MR. MARTIN: Mr. Chairman, I don't think there is much more that can be said; however, I do want to point out that this also covers property held for charitable purposes and this is a very wide range of subjects. Certainly, if there ever was a field where the legislature ought to be able to include some things and exclude other things and modify its position from time to time, this ought to be it. For that reason it seems very unwise to me to tie the legislature's hands. We all have our own charities, we all belong to churches, and so on, but this is not the thing that we ought to be doing as far as the constitution is concerned.

CHAIRMAN BENTLEY: Does Mr. Martin desire to yield to the gentleman from Grand Rapids, Mr. DeVries?

MR. MARTIN: Yes, certainly.

MR. DEVRIES: Mr. Chairman and ladies and gentlemen of the committee, first in response to Mrs. Cushman, there have been attempts in the past few years to take away these tax exemptions in the legislature. I would anticipate there

will be more attempts in the next 5 years or 10 years or 20 years.

Again, to Mr. Martin, this is a statement of intent on behalf of the constitutional convention. We state philosophically that we think these institutions ought to be tax exempt. We leave to the legislature the definition of these terms. It seems to me nothing more than a statement of our intent, a philosophical statement of our intent, in the constitution.

CHAIRMAN BENTLEY: The gentleman has the floor.

MR. MARTIN: Mr. Chairman, it seems to me that the philosophical intent of the people is perfectly clear in the action which the legislature has taken in the past. It does not seem to me there is the slightest possibility — Mr. DeVries says that these have been endangered, but the mere fact that bills have been introduced does not create any danger; that happens all the time, and if there is one subject on which the legislature is not likely to start destroying the exemptions, this is it; because everybody inside and outside the legislature belongs to a church and this is just talking about the remotest kind of possibility and certainly is not necessary to protect either the churches or the charities.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from St. Ignace, Mr. Dell.

MR. DELL: Mr. Chairman, I think there has been enough said on this subject. I only got up to support the DeVries amendment, and I think plenty has been said.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Bay City, Mr. Higgs.

MR. HIGGS: I would like to direct one more question to Delegate DeVries, and I think I could go along with this amendment if you mean what you said. The last time you spoke I understood you to say that this was a statement of intention and that the definition of these matters will be left to the legislature. I am a little concerned about the broad language of associations for charitable purposes, and I think this is the thing: now, if you would accept as an amendment "as prescribed and defined by law," I could support your amendment. Could you accept such an amendment, "as prescribed and defined by law"? Then we would have a constitutional statement of intention and, as you have said — if I understood you — then it would be left to the legislature to define it.

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Grand Rapids.

MR. DEVRIES: May I respectfully request a meeting with the delegate?

MR. HIGGS: Yes.

CHAIRMAN BENTLEY: The Chair will recognize the gentleman from Taylor, Mr. Marshall.

MR. MARSHALL: Mr. Chairman, I want to agree with Mr. DeVries that there was some attempt in the legislature to do away with this exemption, but they did not get very far in the legislature and I still think there has been enough discussion on this. I think everyone has their minds made up on this question, and if the legislature should take this away — which I don't suspect that it will — I am sure that there would be some other con con delegate who would be willing to take his place in the legislature. (laughter)

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Fennville, Mr. Hutchinson.

MR. HUTCHINSON: Mr. Chairman, I was a little bit interested in Mr. DeVries' statement that he understood this amendment to be merely a directive to the legislature to do thus and so, and so I went over to his desk and looked at the words, and I will have to take issue with him. I think that the wording that he proposes is a statement in the constitution that certain types of institutions and property shall be exempt. Any attempt of the legislature to define it or to impose a tax upon something that somebody else thought fell within the exemption would be taken to court and it would be entirely up to what the court said as to whether or not this was the kind of property that fell within an exemption defined not by the legislature but by the constitution. I don't think that his wording, as he has offered it here, is a directive to the legislature at all. I think, as Mr. Wanger, I believe, pointed out earlier in the debate, what we have here is something that will

transfer this matter entirely out of the hands of the legislature and place it in the hands of the court.

Now, I don't know why we need to be so fearful of what the legislature might do and repose so much confidence in our courts. I think we should look with equal suspicion on both of them, but also with equal confidence in both of them, too. For that reason, while I—please do not misunderstand me—in the legislature would vote for bills to preserve these exemptions by legislative act, I don't think I could support any such categorical wide sweeping statement in the constitution as Mr. DeVries has offered.

CHAIRMAN BENTLEY: Does the gentleman yield to the gentleman from Grand Rapids for a reply?

MR. HUTCHINSON: I yield.

CHAIRMAN BENTLEY: The gentleman from Grand Rapids has the floor.

MR. DEVRIES: Mr. Chairman, Mr. Hutchinson, briefly, this is a directive to the legislature not to tax religious, charitable or educational institutions. That is correct.

MR. HUTCHINSON: Mr. Chairman, I would like to ask the delegate to point out to me where it says it is a directive to the legislature. Will you read this language—or ask the secretary to?

MR. DEVRIES: I will read the amendment, if it is all right, Mr. Chairman.

[The amendment was again read by Mr. DeVries. For text, see above, page 897.]

MR. HUTCHINSON: Very well, I would ask the delegate to tell me where there is any directive to the legislature in that language.

MR. DEVRIES: I think the prohibition is sufficient, Mr. Hutchinson, that the point is in the constitution.

MR. HUTCHINSON: Exactly. It is no directive to the legislature to pass any law at all. It is right there, and any attempt by the legislature to define any one of those terms or to use its judgment as to whether under a particular situation, the situation would fall within any one of those exemptions, is something that would be decided by the courts. There is no directive to the legislature to pass any laws at all; it is a constitutional exemption. I think my statement stands.

MR. VAN DUSEN: Mr. Chairman.

CHAIRMAN BENTLEY: Does the gentleman from Fennville desire to yield to the gentleman from Birmingham who is seeking recognition?

MR. HUTCHINSON: Mr. Chairman, I might say I am not quite used to this congressional practice yet. (laughter) I will yield to the gentleman from Birmingham.

CHAIRMAN BENTLEY: The Chair will point out to the gentleman from Fennville that he may need to be some day. (laughter and applause)

MR. VAN DUSEN: Mr. Chairman, Mr. Hutchinson's inquiry to Dr. DeVries has raised a question which should have occurred to me earlier. Dr. DeVries, would an educational institution operated for profit—take, for example, the typical secretarial school in the city of Detroit—qualify for tax exemption under your amendment?

MR. DEVRIES: Mr. Chairman and Mr. Van Dusen, again, perhaps the language of this amendment should have been on your desk, "Property held by a nonprofit corporation, association, or legal entity. . . ." Does that answer your question, Mr. Van Dusen?

MR. VAN DUSEN: "Nonprofit," I take it, modifies all the types of entity?

MR. DEVRIES: That is correct.

MR. VAN DUSEN: Excuse me. I should have listened more carefully.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Ypsilanti, Mr. Lawrence.

MR. LAWRENCE: I would like to oppose the amendment, and I would like to state briefly the reason. I am aware of the wording "used exclusively for religious" and so forth, but I am still wondering about this: suppose that one of the

so called exempt organizations owned real estate that it rented, leased, but used the proceeds exclusively for educational or religious purposes. There is a good question as to whether or not that would be not exempt from taxation, that property. In other words, the trouble is that we are in the legislative field when we should be in the constitutional field.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Detroit, Mr. Downs.

MR. DOWNS: Mr. Chairman, I rise in support of the DeVries amendment, and I want to point out to the committee that while I would rather we had also had the Austin amendment as added protection, I feel that Committee Proposal 26 that came out of declaration of rights, suffrage and elections providing for equal protection of the laws would, I think, solve the problem that has been raised here. I would prefer Mr. Austin's language, which I think was more specific.

I think if I understood Mr. DeVries right, he made it clear that the intent of his language was for the nonprofit or charitable function and not for a private or profit function that a charitable organization might have. With those 2 protections, it would seem to me that this gets at what we do seem to agree upon. It may not be the language with the amendment I would have preferred, but that notwithstanding, I will support the amendment as it has now been presented by Mr. DeVries.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Pontiac, Mr. King.

MR. KING: Mr. Chairman, I would like to direct a question to Mr. DeVries. We have a fine institution of higher learning down in our part of the state known as the committee on political education. I wonder if this would qualify. I yield for an answer from Delegate DeVries. Does the committee on political education qualify under the terms of your amendment as a nonprofit educational institution?

CHAIRMAN BENTLEY: The gentleman yields to the gentleman from Grand Rapids for a reply.

MR. DEVRIES: I would like to yield, Mr. Chairman, but I cannot think to whom I should yield. (laughter) I do not think that is a corporation or association that is organized exclusively for religious, educational or charitable functions.

CHAIRMAN BENTLEY: Is the lady from Highland Park seeking recognition?

MISS DONNELLY: I want to just add that as an attorney, I appreciate litigation when it is worthwhile; but I cannot see increasing our courts with litigation on this issue when the legislature has acted repeatedly and, I think in everybody's opinion, properly, that there is no reason to put this in the constitution and swell the problems in litigation in not only our supreme court but all the lower courts until it gets there.

CHAIRMAN BENTLEY: The question is on the amendment offered by the gentleman—does the gentleman wish recognition?

MR. DEVRIES: Mr. Chairman and members of the committee, this does not nullify any legislation or court decisions on the books; it establishes a principle in the constitution. I don't understand what everybody is so concerned about.

CHAIRMAN BENTLEY: Does the gentleman from Detroit, Mr. Garvin, seek recognition?

MR. GARVIN: Mr. Chairman and delegates, I do not support the DeVries amendment for the reason of the declaration of rights amendment. I am not sure at this time which would receive precedence in the case of any legal matter concerning this thing. In the DeVries amendment, there is no way out; it must be.

Now, if, in the declaration of rights, there was discrimination in a hospital, or is, which of these acts would prevail? As long as there is a question about anything that is placed in the constitution, it shouldn't be there.

CHAIRMAN BENTLEY: The gentleman from Bay City, Mr. Higgs, is recognized.

MR. HIGGS: Mr. Chairman, if my understanding is correct, now—and I direct this question to Delegate DeVries—you would not accept an amendment of "as defined by law" after the word "purposes." Is that correct? Did I understand you

correctly before to say that this was merely a statement of intention?

MR. DeVRIES: Yes, correct. Mr. Chairman and Mr. Higgs, if you added that, you would have a redundancy and there is no need for the original amendment.

MR. HIGGS: I think I should offer this amendment at this time.

CHAIRMAN BENTLEY: The gentleman from Bay City desires to offer an amendment to the DeVries amendment, which the secretary will read.

SECRETARY CHASE: Mr. Higgs offers the following amendment to the amendment offered by Mr. DeVries and Mrs. Koeze:

1. Amend the amendment after "purposes" by inserting a comma and "as defined by law,"; so that the language will read:

Property held by a nonprofit corporation, association or legal entity and used exclusively for religious, educational, charitable or cemetery purposes, as defined by law, shall be exempt from real and personal property taxes.

CHAIRMAN BENTLEY: The gentleman is recognized in support of his amendment.

MR. HIGGS: Mr. Chairman and fellow delegates, I was impressed, first of all, by the statements of Delegate Wanger and subsequently by the statements of Delegate Hutchinson with regard to just exactly what we are doing. I had originally been impressed very favorably by the discussion of Delegate DeVries. I had understood him to say that what he intended was to include in the constitution a statement of intention with regard to this matter. Now, I, too, share many of the sentiments of Delegate Marshall in this matter. I don't want to be on record as opposed to education or opposed to religious organizations of any kind, or any charitable purpose, but the language that we are incorporating is so broad as to not make it, I think, a matter of a statement of intention but a matter that is mandatory, not directory, and would take away from the legislature any power to define what is meant by an association. In law, an association can include so many things, as we all know, and to extend to the association such an exemption in a mandatory manner with regard to another very broad purpose, the charitable purpose, is the part of this thing that seems to me very critical. If we add after the word "purposes," "as defined by law," I can vote for this.

By the way, if this is done, we still have a mandatory direction that such institutions be exempt from real and personal property; so we are really not cutting the heart out of the thing at all, but if we do permit the legislature to define these purposes we are giving some real meaning to it. Thank you.

CHAIRMAN BENTLEY: The Chair recognizes the gentleman from Battle Creek, Mr. Everett, to speak on the Higgs amendment.

MR. EVERETT: Mr. Chairman, I would like to oppose the Higgs amendment. I think we have certainly made a mountain, if not out of a molehill, at least out of a small mountain to begin with, into a large one. We have a very clear cut issue here: either you believe that the exemption which now exists should be written into the constitution so that it cannot be removed by the legislature or you believe it should be left to the legislature. It is as simple as that. It seems to me that you can vote yes or no on it, but with the ambiguity of Mr. Higgs' language it means, then, that the legislature could do by indirection what, on one hand, we are saying they cannot do by direction. I would submit that we should defeat this amendment and then vote on the principal amendment and vote whatever your convictions may be, but let's vote them.

CHAIRMAN BENTLEY: The question is on the amendment offered by Mr. Higgs to the amendment offered by Mr. DeVries. Those in favor of the Higgs amendment will respond by voting aye. Those opposed?

The amendment is not adopted.

The question is now on the DeVries-Koeze amendment. As many as are in favor will vote aye. Those opposed?

A DELEGATE: Division.

CHAIRMAN BENTLEY: Division has been demanded. Is there support?

SECRETARY CHASE: A sufficient number.

CHAIRMAN BENTLEY: Those in favor of the DeVries amendment will vote aye. Those opposed will vote no. The machine will be locked.

SECRETARY CHASE: On the adoption of the amendment offered by Mr. DeVries and Mrs. Koeze, the yeas are 54; the nays are 65.

CHAIRMAN BENTLEY: The amendment is not adopted. Are there any amendments to the body of the proposal?

SECRETARY CHASE: There are no further amendments.

CHAIRMAN BENTLEY: If not, it will pass.

Committee Proposal 51, as amended, is passed. The secretary will read. (applause)

The gentleman from Pontiac, Mr. Kuhn.

MR. KUHN: For the purpose of afternoon recess, I move the committee do now rise.

CHAIRMAN BENTLEY: The motion is whether the committee shall rise. Those in favor of the motion will respond by voting aye. Those opposed?

The Chair rules the nays have it.

A DELEGATE: Division.

CHAIRMAN BENTLEY: Division is demanded. Is there support?

SECRETARY CHASE: A sufficient number.

CHAIRMAN BENTLEY: Those in favor of Mr. Kuhn's motion that the committee rise will vote aye. Those opposed will vote no. The secretary will lock the machine. The committee will be in order.

SECRETARY CHASE: On the motion that the committee rise, the yeas are 57 and the nays are 51.

CHAIRMAN BENTLEY: The committee will rise.

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

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

MR. BENTLEY: Mr. President, the committee of the whole has had under consideration certain items on the general orders calendar of which the secretary will give a detailed report.

SECRETARY CHASE: Mr. President, the committee of the whole has had under consideration **Committee Proposal 51**, A proposal setting up the uniform rule of taxation for providing for equalization a maximum limit for assessments, prohibiting a graduated income tax, and covering the subject matter of sections 3, 4, 7 and 8 of article X of the 1908 constitution; has adopted 2 committee amendments thereto; and recommends the amendments be agreed to and the proposal as thus amended do pass.

[Following are the amendments recommended by the committee of the whole:

1. Amend page 1, line 17, by striking out "or for alternative means of taxation of such property from taxation,".
2. Amend page 1, line 21, after "class" by inserting "or classes".]

PRESIDENT NISBET: The question is on agreeing to the amendments as recommended by the committee of the whole. Those in favor will say aye; opposed no.

The amendments are agreed to.

The proposal, as amended, is referred to the committee on—

MR. AUSTIN: Mr. President.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President, just a moment, please. We would like to get some votes on these amendments.

SECRETARY CHASE: May the secretary inquire of Mr. Austin as to which amendments he wishes to offer?

MR. AUSTIN: All 3 of the amendments offered by the minority.

SECRETARY CHASE: Mr. Austin offers, first:

1. Amend page 1, line 8, after "Sec. a.", by striking out

"The legislature shall provide by law a uniform rule governing the general ad valorem taxation of real property and tangible personal property.", and inserting "The legislature may by law authorize or impose ad valorem taxes which shall be uniform within the classes of property to which they are applied."

PRESIDENT NISBET: The question is on the Austin amendment.

MR. AUSTIN: Mr. President, I would request a roll call vote on all 3 amendments.

PRESIDENT NISBET: Is the demand supported? Those in favor rise. It is supported. Mr. Kuhn.

MR. KUHN: Preferential motion, please. I move that the convention now recess for 10 minutes.

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

The motion prevails. We will recess for 10 minutes.

[Whereupon, at 3:45 o'clock p.m., the convention recessed; and at 3:55 o'clock p.m., reconvened.]

The convention will please come to order.

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

Mr. Austin offers the following amendment:

[The amendment was again read by the secretary. For text, see above, page 906.]

PRESIDENT NISBET: The question is on the Austin amendment. The yeas and nays have been demanded. Those in favor of the Austin amendment will vote aye. Those opposed to the Austin amendment will vote no. The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—42

Andrus, Miss	Follo	Murphy
Austin	Greene	Norris
Baginski	Hart, Miss	Ostrow
Balcer	Hatcher, Mrs.	Pellow
Binkowski	Hodges	Perlich
Brown, T. S.	Hood	Pollock
Buback	Hoxie	Rajkovich
Cushman, Mrs.	Kelsey	Sablich
Dade	Krolikowski	Snyder
Doty, Donald	Lesinski	Stopczynski
Douglas	Madar	Walker
Downs	Mahinske	Wilkowski
Elliott, Mrs. Daisy	Marshall	Young
Everett	McCauley	Youngblood

Nays—83

Allen	Haskill	Richards, J. B.
Batchelor	Hatch	Richards, L. W.
Beaman	Higgs	Rood
Bentley	Howes	Rush
Blandford	Hubbs	Seyferth
Bonisteel	Hutchinson	Shackleton
Boothby	Iverson	Shaffer
Brake	Judd, Mrs.	Shanahan
Brown, G. E.	Karn	Sharpe
Butler, Mrs.	King	Sleder
Cudlip	Kirk, S.	Spitler
Danhof	Kuirk, B.	Stafseth
Davis	Koeze, Mrs.	Staiger
Dehnke	Kuhn	Stamm
Dell	Lawrence	Sterrett
DeVries	Leppien	Stevens
Doty, Dean	Lundgren	Suzore
Durst	Martin	Tubbs
Elliott, A. G.	McLogan	Turner
Erickson	Mosier	Tweedie
Farnsworth	Nisbet	Upton
Figy	Page	Van Dusen
Finch	Perras	Wanger
Gadola	Plank	White
Gover	Powell	Wood
Gust	Prettie	Woolfenden

Hanna, W. F.
Hannah, J. A.

Pugsley
Radka

Yeager

SECRETARY CHASE: On the adoption of the amendment proposed by Mr. Austin, the yeas are 42, the nays are 83.

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

SECRETARY CHASE: Mr. Austin offers the following amendment:

2. Amend page 1, line 13, after "assessed" by striking out the comma and "which shall not, after January 1, 1966, exceed 50 per cent,"; so that the language will then read:

The legislature shall provide by law for the determination of true cash value of such property and shall specify the proportion of true cash value at which such property shall be uniformly assessed and shall provide by law for a system of equalization of assessments.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Thank you, Mr. President. I think it is appropriate for the delegates to know what they are voting on. The first — the amendment on which they have just voted — was the uniformity clause, and the one that is before them now is the 50 per cent of true cash value standard in regard to assessments.

PRESIDENT NISBET: Thank you, Mr. Austin.

SECRETARY CHASE: Will the delegates please clear their voting stations on the voting machine.

PRESIDENT NISBET: All in favor of the Austin amendment will vote aye. Those opposed to the Austin amendment will vote nay. The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—43

Allen	Hart, Miss	Norris
Andrus, Miss	Hatcher, Mrs.	Pellow
Austin	Hodges	Perlich
Baginski	Hood	Sablich
Balcer	Judd, Mrs.	Snyder
Binkowski	Kelsey	Stamm
Brown, T. S.	Krolikowski	Sterrett
Buback	Lesinski	Stopczynski
Cushman, Mrs.	Madar	Suzore
Dade	Mahinske	Van Dusen
Douglas	Marshall	Walker
Downs	McCauley	Wilkowski
Elliott, Mrs. Daisy	McLogan	Young
Follo	Murphy	Youngblood
Greene		

Nays—84

Batchelor	Hannah, J. A.	Powell
Beaman	Haskill	Prettie
Bentley	Hatch	Pugsley
Blandford	Heideman	Radka
Bonisteel	Higgs	Rajkovich
Boothby	Howes	Richards, J. B.
Brake	Hoxie	Richards, L. W.
Brown, G. E.	Hubbs	Rood
Butler, Mrs.	Hutchinson	Rush
Cudlip	Iverson	Seyferth
Danhof	Karn	Shackleton
Davis	King	Shaffer
Dehnke	Kirk, S.	Shanahan
Dell	Knirk, B.	Sharpe
DeVries	Koeze, Mrs.	Sleder
Doty, Dean	Kuhn	Spitler
Durst	Lawrence	Stafseth
Elliott, A. G.	Leppien	Staiger
Erickson	Lundgren	Stevens
Everett	Martin	Tubbs
Farnsworth	McAllister	Turner
Figy	Mosier	Tweedie
Finch	Nisbet	Upton
Gadola	Ostrow	Wanger
Gover	Page	White
Gust	Perras	Wood
Hanna, W. F.	Plank	Woolfenden
	Pollock	Yeager

SECRETARY CHASE: On the adoption of the second

amendment offered by Mr. Austin, the yeas are 43, the nays are 84.

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

SECRETARY CHASE: Mr. Austin offers the following amendment:

3. Amend page 1 by striking out all of lines 21 and 22; and by striking out all of page 2.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President, I would like to remind the delegates that we are not voting on an income tax nor are we voting on a graduated income tax. We are merely voting to determine whether the legislature shall be prohibited at any time from levying such a tax.

PRESIDENT NISBET: Thank you, Mr. Austin. The question is on the Austin amendment. Those in favor will vote aye. Those opposed will vote nay. The secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—60

Allen	Haskill	Norris
Andrus, Miss	Hatch	Ostrow
Austin	Hatcher, Mrs.	Pellow
Baginski	Heideman	Perlich
Balcer	Hodges	Pollock
Bentley	Hood	Rajkovich
Binkowski	Howes	Richards, L. W.
Brown, T. S.	Judd, Mrs.	Sablich
Buback	Kelsey	Sleder
Butler, Mrs.	Koeze, Mrs.	Snyder
Cushman, Mrs.	Krolikowski	Spitler
Dade	Lawrence	Stamm
Davis	Lesinski	Sterrett
Doty, Dean	Madar	Stopezynski
Douglas	Mahinske	Suzore
Downs	Marshall	Tubbs
Elliott, Mrs. Daisy	McCauley	Walker
Follo	McLogan	Wilkowski
Greene	Murphy	Young
Hart, Miss	Nord	Youngblood

Nays—69

Batchelor	Gust	Prettie
Beaman	Hanna, W. F.	Pugsley
Blandford	Hannah, J. A.	Radka
Bonisteel	Higgs	Richards, J. B.
Boothby	Hoxie	Rood
Brake	Hubbs	Rush
Brown, G. E.	Hutchinson	Seyferth
Cudlip	Iverson	Shackleton
Danhof	Karn	Shaffer
Dehnke	King	Shanahan
Dell	Kirk, S.	Sharpe
DeVries	Knirk, B.	Stafseth
Donnelly, Miss	Kuhn	Staiger
Doty, Donald	Leppien	Stevens
Durst	Lundgren	Turner
Elliott, A. G.	Martin	Tweedie
Erickson	McAllister	Upton
Everett	Mosier	Van Dusen
Farnsworth	Nisbet	Wanger
Figy	Page	White
Finch	Perras	Wood
Gadola	Plank	Woolfenden
Gover	Powell	Yeager

SECRETARY CHASE: On the adoption of the third amendment offered by Mr. Austin, the yeas are 60, the nays are 69.

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

SECRETARY CHASE: Mr. DeVries and Mrs. Koeze offer the following amendment:

1. Amend page 1, line 20, after "applied.", by inserting "Property held by a nonprofit corporation, association or legal entity and used exclusively for religious, educational, charitable or cemetery purposes shall be exempt from real and personal property taxes."

PRESIDENT NISBET: Mr. DeVries.

MR. DeVRIES: Mr. President, I respectfully request a record roll call vote.

SECRETARY CHASE: Mr. Higgs offers the following amendment to the amendment proposed by Mr. DeVries and Mrs. Koeze:

1. Amend the amendment after "purposes" by inserting a comma and "as defined by law,".

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

MR. HIGGS: I would like to state again that my purpose in offering this amendment is so that I can vote for the DeVries amendment. If this amendment is adopted, I think that the DeVries amendment will then conform to what was the stated intention—the constitution would state the intention which he recommended. If it does not, then it takes away from the legislature the power to define what is an association or other legal entity for charitable purposes, and I think that is much too broad. In all conscience, I must—if this amendment fails—vote against the DeVries amendment.

PRESIDENT NISBET: Mr. DeVries.

MR. DeVRIES: Mr. President, I urge you not to adopt the amendment. I move the previous question on the Higgs amendment and on the DeVries amendment.

PRESIDENT NISBET: The question is on the previous question. Is the demand seconded?

SECRETARY CHASE: A sufficient number.

PRESIDENT NISBET: Shall the main question now be put? Those in favor say aye; opposed, no.

It is so ordered. The question is now on the Higgs amendment to the amendment. Those in favor of the Higgs amendment will say aye; opposed, no.

The amendment to the amendment is not adopted.

Those now in favor of the amendment by Mr. DeVries and Mrs. Koeze will vote aye. Those opposed will vote no. The secretary will lock the machine and record the vote.

Mr. Van Dusen.

MR. VANDUSEN: I demand the vote of Mr. Marshall.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: I think you need 4 other guys to demand my vote—I am not sure—and then I think I still have a right to abstain and then I will explain my reasons for abstaining. Am I incorrect, Mr. President?

PRESIDENT NISBET: Is he correct, Mr. Chase?

SECRETARY CHASE: Yes.

MR. MARSHALL: I don't think you want me to explain my reasons for abstaining because it would take me 45 minutes. (laughter)

MR. EVERETT: Point of order, Mr. President.

I would call the secretary's attention to rule 67, which says, "No delegate shall be entitled to abstain from voting in any roll call unless he shall have stated his intention to abstain before the voting starts." I submit that the delegate has no right to abstain.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: I thought I did that in the committee of the whole. Maybe I am confused. If you want me to vote, I will vote and then explain my vote, Mr. President.

PRESIDENT NISBET: Mr. Lesinski.

MR. LESINSKI: Mr. President, why pick on Mr. Marshall when there are others who have not voted?

SECRETARY CHASE: Has everyone voted?

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: Mr. President, Dr. Nord would like us to demand that he vote and Mr. Norris, and I request that he vote.

SECRETARY CHASE: The machine is locked.

PRESIDENT NISBET: If you have all finished, the machine is locked and the vote will now be recorded.

The roll was called and the delegates voted as follows:

Yeas—59

Baginski	Hodges	Perras
Balcer	Hood	Pugsley
Beaman	Howes	Radka
Bentley	Iverson	Rajkovich
Binkowski	Judd, Mrs.	Shackleton
Buback	Kelsey	Shaffer

Cudlip	Knirk, B.	Sharpe
Dade	Koeze, Mrs.	Sleder
Danhof	Krolkowski	Snyder
Dell	Leppien	Stamm
DeVries	Lesinski	Sterrett
Downs	Madar	Stevens
Elliott, Mrs. Daisy	Mahinske	Stopczynski
Erickson	Marshall	Suzore
Everett	McCauley	Tweedie
Gadola	McGowan, Miss	Walker
Gust	Murphy	White
Hannah, J. A.	Nisbet	Wilkowski
Hart, Miss	Pellow	Youngblood
Hatcher, Mrs.	Perlich	

Nays—67

Allen	Gover	Plank
Andrus, Miss	Greene	Pollock
Batchelor	Hanna, W. F.	Powell
Blandford	Haskill	Prettie
Bonisteel	Hatch	Richards, J. B.
Boothby	Heideman	Richards, L. W.
Brake	Higgs	Rood
Brown, G. E.	Hoxie	Rush
Butler, Mrs.	Hubbs	Sablich
Cushman, Mrs.	Hutchinson	Seyferth
Davis	Karn	Shanahan
Dehnke	King	Spitler
Donnelly, Miss	Kirk, S.	Stafseth
Doty, Dean	Kuhn	Staiger
Doty, Donald	Lawrence	Tubbs
Douglas	Lundgren	Turner
Durst	Martin	Upton
Elliott, A. G.	McAllister	Van Dusen
Farnsworth	McLogan	Wanger
Figy	Mosier	Wood
Finch	Ostrow	Woelfenden
Follo	Page	Yeager
Garvin		

SECRETARY CHASE: On the adoption of the amendment proposed by Mr. DeVries and Mrs. Koeze, the yeas are 59, the nays are 67.

PRESIDENT NISBET: The amendment is not adopted.

MR. MARSHALL: Mr. President.

PRESIDENT NISBET: Mr. Marshall.

MR. MARSHALL: Briefly, I want to explain by vote. I could have abstained—

MR. VAN DUSEN: Mr. President, a point of order. Does the gentleman have a right to explain a yes vote?

PRESIDENT NISBET: Mr. Marshall may proceed.

MR. MARSHALL: I want to explain my yes vote. I could have—I disagree with Mr. Van Dusen—I think I could have abstained from voting. It's true I should have announced my intention to abstain prior to the starting of the taking of the vote. I appreciate the fact that I was singled out for the signal honor of being the first delegate to have his vote demanded on the floor of the convention and, particularly, since it came from such a distinguished delegate as Mr. Van Dusen.

Now, to explain why I was abstaining, I thought I made it clear in the committee of the whole, and I will be very brief: I am not opposed to the principle of this amendment. I am opposed to the entire provision being incorporated into the constitution. As previously stated, it is statutory in nature.

PRESIDENT NISBET: Committee Proposal 51, as amended, is referred to the committee on style and drafting.

Following is Committee Proposal 51 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 legislature shall provide by law a uniform rule governing the general ad valorem taxation of real property and tangible personal property. The legislature shall provide by law for the determination of true cash value of such property and shall specify the proportion of true cash value at which such property shall be uniformly

assessed, which shall not, after January 1, 1966, exceed 50 per cent, and shall provide by law for a system of equalization of assessments. The legislature may provide by law for exemption of such property from taxation, or for alternative means of taxation of such property in lieu of general ad valorem taxation, uniform upon the class or classes of property to which such alternative means are applied.

Every other tax shall be uniform upon the class or classes on which it operates. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

The Chair recognizes Mr. Bentley.

MR. BENTLEY: Mr. President, I move the convention do now resolve itself into committee of the whole for further consideration of items on the **general orders** calendar.

PRESIDENT NISBET: Mr. Bentley, will you hold your motion? Mr. Elliott has a comment. Then we will vote on it.

Mr. Elliott.

MR. A. G. ELLIOTT: I became so interested, Mr. President, in this byplay of words—we haven't had any today—that I forgot that there was something that should be taken care of.

Mr. President, I would like to move that Journal 70, page 439, be corrected under Committee Proposal 83, section a, and under Committee Proposal 83, section b, and that this be published in tomorrow's journal so that you can have it and save some time here, and that we strike out all language in section b, column 2.

MR. FORD: Mr. President, a point of order.

PRESIDENT NISBET: Mr. Ford.

MR. FORD: I want to ask the delegate by what authority he is now amending the majority report of the committee on local government, since we have not met or voted on it at this stage. The members of the committee, I now understand, did meet on it. I was not privileged to be invited to this meeting.

MR. A. G. ELLIOTT: Mr. Ford, I am sorry, but this has nothing to do with the action that was taken in the committee. This is to correct some mistakes that were in the original majority report. I might just as well explain that in the printing of it, on the last page, some of the language was misplaced and I am just trying to get it in its proper place in the journal, Mr. Ford.

PRESIDENT NISBET: Without objection, the corrections that Mr. Elliott has asked for in his report will be made in the journal.

Is there any objection? Mr. Ford.

MR. FORD: I do not want to object to Mr. Elliott's changes in the language of the explanation. I will object to any change in the text of the proposal itself.

PRESIDENT NISBET: Mr. Elliott, as I understand it, you are only correcting the committee comments?

MR. A. G. ELLIOTT: These are just in the comments, the comments that were made. They are not in the proposal itself. The proposal itself has a change and that will be done by amendment when it is the proper time.

PRESIDENT NISBET: Without objection, the corrections will be made. They are made.

Following are the corrections:

Committee Proposal 83, section a comment—delete all language following the word "changes" in line 27 of column 1.

Committee Proposal 83, section b comment—strike the words "6 through 9" in line 8 of section b, column 1, and insert the words "19 through 22".

Strike all language following line 10 of section b, column 2, and insert the following:

"the right to control municipal wages and hours and administration. It is the feeling of a majority of the committee that certain categories of municipal employees are given preferred treatment by state laws to the detriment of other employees. The committee is of the opinion that wages and hours should be set by the local governing body

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 61 of that committee, reporting back to the convention **Committee Proposal 37**, A proposal to provide for care and control of state funds, accounting for public moneys, audits, and publication of reports, and covering the general subject matter found in sections 15, 16, 17, 18 and 13 of article X of the 1908 constitution; with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 37 as reported by the committee on style and drafting, see below under date of April 19.

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 62 of that committee, reporting back to the convention **Committee Proposal 38**, A proposal with reference to the earmarking of the gas and weight taxes for highway purposes covering the subject matter of article X, section 22 of the 1908 constitution; with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 38 as reported by the committee on style and drafting, see below under date of April 19.

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 63 of that committee, reporting back to the convention **Committee Proposal 39**, A proposal with reference to the earmarking of sales tax revenues covering the subject matter of section 23 of article X of the 1908 constitution; with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 39 as reported by the committee on style and drafting, see below under date of April 19.

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 64 of that committee, reporting back to the convention **Committee Proposal 49**, A proposal with reference to the borrowing of money by public corporations and bodies; with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 49 as reported by the committee on style and drafting, see below under date of April 19.

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 65 of that committee, reporting back to the convention **Committee Proposal 51**, A proposal setting up the uniform rule of taxation for providing for equalization a maximum limit for assessments, prohibiting a graduated income tax, and covering the subject matter of sections 3, 4, 7 and 8 of article X of the 1908 constitution; with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 51 as reported by the committee on style and drafting, see below under date of April 19.

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 66 of that committee, reporting back to the convention **Committee Proposal 52**,

A proposal with reference to the taxation of certain utilities, covering the material in article X, section 5 of the 1908 constitution; with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 52 as reported by the committee on style and drafting, see below under date of April 19.

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 67 of that committee, reporting back to the convention **Committee Proposal 55**, A proposal to include article X, section 19 of the 1908 constitution in the new constitution; with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 55 as reported by the committee on style and drafting, see below under date of April 19.

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 68 of that committee, reporting back to the convention **Committee Proposal 56**, A proposal to limit the ad valorem taxation of property covering the subject matter of section 21, article X of the 1908 constitution, commonly known as the 15 mill limitation; with the recommendation that the style and form be approved.
William B. Cudlip, chairman.

For Committee Proposal 56 as reported by the committee on style and drafting, see below under date of April 19.

PRESIDENT NISBET: Referred to the order of second reading of proposals.

Communications.

SECRETARY CHASE: None.

PRESIDENT NISBET: Motions and resolutions.

SECRETARY CHASE: No resolutions on file.

PRESIDENT NISBET: Unfinished business.

SECRETARY CHASE: None.

PRESIDENT NISBET: **General orders.** The Chair recognizes Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, I move that the convention resolve itself into committee of the whole for the further consideration of proposals on general orders.

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

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

CHAIRMAN HUTCHINSON: The committee will be in order. The secretary will announce the present situation.

SECRETARY CHASE: Item 20 on the general orders calendar, from the committee on legislative powers, by Mr. Hoxie, chairman, **Committee Proposal 118**, A proposal to provide for vesting the legislative power in the senate and house of representatives and to reserve the power of initiative and referendum to the people. Two amendments have been adopted and pursuant to their minority report, Messrs. Downs, Lesinski and Murphy have offered an amendment to insert 2 new paragraphs on page 6, after line 24.

For last previous action by the committee of the whole on Committee Proposal 118, see above, page 2390.

Last evening Mr. Downs had revised the amendment by the addition of a sentence to the first paragraph and another sentence at the end of the second paragraph. This revised amend-

I do not wish to vote for a proposal which removes earmarking from school funds while leaving it for roads and cities, but neither do I wish to vote against a proposal which would return needed funds to our cities.

It is referred to the committee on style and drafting.

Following is Committee Proposal 39 as amended and rereferred to the committee on style and drafting:

Sec. a. One-eighth of all taxes upon the privilege of selling tangible personal property at retail shall be used exclusively for assistance to cities, villages and townships, on a population basis as provided by law. The legislature may exclude from population any portion of the total number of persons who are wards, patients or convicts of any tax supported institution.

At no time shall the legislature levy a sales tax on retailers at a rate of more than 4 per cent of their gross taxable sales of tangible personal property.

Sec. b. 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 provided by law.

PRESIDENT NISBET (continuing): — The Chair recognizes Mr. Jones.

MR. JONES: Mr. President, fellow delegates, I move to reconsider the vote taken on the passage of **Committee Proposal 38**.

For vote on passage of Committee Proposal 38, see above, page 2635.

I do so in view of the fact that the delegates assembled, with an assist from the leadership of the MEA, have voted to take away earmarking from the schools, and we should also have an opportunity to decide whether it should not also be stricken from other specialized governmental functions. I also demand the yeas and nays on this motion.

PRESIDENT NISBET: The question is on the motion of Mr. Jones that the vote by which Committee Proposal 38 was passed be reconsidered. Those in favor will —

MR. DOWNS: Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I wish to speak in favor of the reconsideration motion. You know, sometimes you want the best thing and then the next best, and then we move pretty far down the line. If we certainly had apportionment, I could make very good arguments for no earmarking. Without that, we have made very good arguments for earmarking. But the way we stand now, we will be earmarking for cement, for which there can be good arguments made, but we will not be earmarking for children, for which I think even better arguments can be made. I would hope that, in view of our removing earmarking for education, we would have the opportunity to vote to reconsider our action on having earmarking for roads but not for children.

PRESIDENT NISBET: The question is on the motion to reconsider the passage of Committee Proposal 38. The secretary will read the title.

SECRETARY CHASE: Committee Proposal 38, A proposal with reference to the earmarking of the gas and weight taxes for highway purposes covering the subject matter of article X, section 22 of the 1908 constitution; which was passed this morning. Mr. Jones moves to reconsider the vote by which Committee Proposal 38 was passed.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded? Sufficient number up. Those in favor of reconsideration of the vote on the passage of Committee Proposal 38 will vote aye. Those opposed to reconsideration will vote nay. The question is on reconsideration. 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 — 34

Austin	Garvin	Mahinske
Baginski	Hart, Miss	McCauley
Balcer	Heideman	McGowan, Miss
Barthwell	Hodges	Perras
Binkowski	Jones	Pollock
Bledsoe	Kelsey	Rajkovich
Bradley	Kuhn	Sablich
Buback	Lawrence	Stopczynski
Cushman, Mrs.	Lesinski	Wilkowski
Downs	Liberato	Young
Elliott, Mrs. Daisy	Madar	Youngblood
Follo		

Nays — 75

Allen	Gover	Richards, J. B.
Andrus, Miss	Habermehl	Romney
Anspach	Haskill	Rood
Batchelor	Hatch	Rush
Beaman	Howes	Seyferth
Bentley	Hoxie	Shackleton
Blandford	Hubbs	Shanahan
Bonisteel	Hutchinson	Sharpe
Boothby	Iverson	Sleder
Brake	Judd, Mrs.	Spitler
Conklin, Mrs.	Karn	Stafseth
Cudlip	King	Staiger
Danhof	Kirk, S.	Stamm
Dehnke	Knirk, B.	Sterrett
Dell	Koeze, Mrs.	Stevens
Doty, Dean	Leppien	Suzore
Doty, Donald	McAllister	Thomson
Durst	McLogan	Turner
Elliott, A. G.	Mosier	Upton
Everett	Nisbet	Van Dusen
Farnsworth	Page	Wanger
Figy	Plank	White
Finch	Powell	Wood
Gadola	Prettie	Woelfenden
Goebel	Pugsley	Yeager

SECRETARY CHASE: On the motion of Mr. Jones to reconsider the vote by which Committee Proposal 38 was passed, the yeas are 34; the nays are 75.

PRESIDENT NISBET: The motion does not prevail. The secretary will read the next proposal.

SECRETARY CHASE: Item 10 on the calendar, **Committee Proposal 51**, A proposal setting up the uniform rule of taxation for providing for equalization a maximum limit for assessments, prohibiting a graduated income tax, and covering the subject matter of sections 3, 4, 7 and 8 of article X of the 1908 constitution.

Following is Committee Proposal 51 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 909.):

Sec. a. The legislature shall provide [by law a] **FOR THE** uniform [rule governing the] general ad valorem taxation of real [property] and tangible personal property[.] **NOT EXEMPT BY LAW.** The legislature shall provide [by law] for the determination of true cash value of such property; [and shall specify] the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 per cent[.] ; and [shall provide by law] for a system of equalization of assessments. The legislature may provide [by law for exemption of such property from taxation, or] for alternative means of taxation of [such] **DESIGNATED REAL AND TANGIBLE PERSONAL** property in lieu of general ad valorem taxation, [uniform upon the class or classes of property to which such alternative means are applied].

Every [other] tax **OTHER THAN THE GENERAL AD VALOREM PROPERTY TAX** shall be uniform upon the class or classes on which it operates. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

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

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, this is the uniformity clause. With 2 exceptions it has the same meaning as the uniformity clause of our present constitution although it is improved and made to cover more than the one section that was originally in the uniformity clause. The 2 exceptions are these: in the old constitution the assessment of property for tax purposes was stated to be at 100 per cent of its fair cash value. Under this proposal it is limited to 50 per cent of the fair cash value after January 1, 1966. The reason for that is to allow those few places in Michigan where they have been assessing personal property at something more than 50 per cent to get back down to the 50 per cent level. We realize that that couldn't be done without great inconvenience in one year's time. So we allowed until January 1, 1966.

The other change is the prohibition at the end against a graduated income tax on either the state or the local level. Under the provisions of the 1908 constitution, it was an open question as to whether the legislature had the power to levy a graduated income tax. The committee's first determination was that it should not leave that hanging in the air; that people should know whether or not the legislature had that power, and the decision of the committee, which was approved by you on general orders, was that it should be prohibited. Those are the 2 controversial things in the proposal so far as I know.

PRESIDENT NISBET: The secretary will read the first amendment.

SECRETARY CHASE: Messrs. Allen and Stevens offer the following amendment:

1. Amend page 1, line 7, [paragraph 1] after "per cent" by inserting "unless otherwise provided by law"; so the language will read, ". . . which shall not, after January 1, 1966, exceed 50 per cent unless otherwise provided by law. . . ."

PRESIDENT NISBET: The Chair recognizes Mr. Allen.

MR. ALLEN: Mr. President, the liberal from Detroit and conservative from Kalamazoo joined together in a hands across the peninsula movement to bring you this amendment. The effect of the amendment is to take the 50 per cent freeze on assessments out of the constitution. I would like to suggest some reasons why we should not have the 50 per cent limitation. The first reason is that by putting it in we are making the constitution which we are drawing, we hope, for the next 50 years more restrictive on the matter of assessments than has been in the past.

Now, from a theoretical point of view, we all should have been, during the last 50 years, assessing at cash value but, of course, you know we have not, and I think that the finance committee has done the right thing in doing away with this arbitrary figure of having to assess at cash value. But then the finance committee went further and provided that after 1966 it never may be more than 50 per cent.

Now, we have earlier today written into the constitution—rewritten—the 15 mill limitation. We do have an escape clause that allows us to go to 18 mills. But now we are turning around and adding on to the 15 mill limitation an additional restriction—and this restriction was not in our old constitution—and that restriction is that the assessments, instead of theoretically being able to go to 100 per cent cash value, will now be 50 per cent. So what we have done is we have made a theoretical 15 mill limitation a 7½ mill limitation. What we are doing with this clause—if we keep it in—is, we first freeze the limitation of 15 mills, subject to increase to 18 mills, and subject to the further right of the people to vote; and then impose another freeze clause, and that is the 50 per cent of assessed valuation. I don't think when we draw a constitution for 50 years, we should do it.

The second reason in support of our amendment is that if we look at the history of Michigan, history would say to us: don't do it. I don't think many remember, but I know when I first went into government, city government in an elected position, back in 1941, my city—and I am sure if it was true in my city it must have been true in a number of other localities—

was imposing an assessment of 70 per cent on real and 70 per cent, approximately, on personal. And then when the war came, and we had great inflation in real estate, the value of property went up very rapidly, but our assessments stayed the same. And this had the effect of making what was an assessment of 70 per cent drop down to approximately 33 per cent. But personal property, which is purchased year by year, more or less kept up with the increase in inflation. Now the point I am trying to make is this: that we found it all right 20, 25 years ago, and there wasn't much objection. We took it as a matter of course to assess at more than 50 per cent. We had to because of the depression. We were down around 33 per cent in 1929. The depression came along, the values dropped, the assessments remained more or less the same, but they were well over 50 per cent.

Now when we write this 50 per cent clause in, you see what we do: we don't allow the flexibility in case we have a sharp industrial recession, or in case something else happens. We take the flexibility out and I wonder if we are doing the right thing when we write into the constitution a figure of 50 per cent, which is approximately the right figure for today; but supposing we were drawing this constitution in 1937 or in 1940, we probably then would have set a 70 per cent figure. If we were having a convention in 1946 or '47, we would have set a 33 per cent figure. I don't think we should take the figure which we are about at today. I think we make a mistake. I think we introduce too much inflexibility, and I think the lesson of history is that this is wrong. We are going to get caught by it.

Now a third point is, there are some communities today that are close to this 50 per cent formula. Let's take the city of Detroit where personal property is still assessed, I think, around the 70 or 75 per cent figure. Real estate is around 40 per cent. Now, if Detroit has to drop its personal property, which is a very high valuation in Detroit in relation to the whole, it either has to cut its total city budget substantially and cut services or it has to drop its personal and raise its real. When Detroit finishes dropping its personal and raising its real, it could very well be that it will either be at or a little above the 50 per cent figure. This is true in several communities, particularly where you have a community with a high amount of factory inventory and machinery. And I think that we are creating too great a hardship on those communities which are so situated that in order to drop personal they must raise real, and when they get through with it, they may be over the 50 per cent figure. In other words, I think that we impose in the constitution a limitation.

Now you will say: well, all they have to do is raise their millage. Yes, but the millage of some of these communities is set by a charter. So not only are some communities affected by a top limitation on millage, also affected by a limitation on 15 mills, but we give a third limitation now on assessments. Personally, I think what we ought to do is to keep the flexibility. Now, the committee actually gave us flexibility. The committee gave us flexibility in doing away with the cash value formula, and if the committee had stopped there I think it would have been fine. And, the committee did stop there until 1966, when the committee said: beginning in 1966, you can't assess at more than 50 per cent of the true cash value. I think this is the bad part.

Now, the Stevens-Allen amendment would do this: when January 1, 1966, comes around, at that point assessments may be no more than 50 per cent of true cash value, but if the legislature felt that they should be more, if we were in a depression, if something should happen, the Stevens-Allen amendment allows the legislature to permit assessments at 55 per cent or 60 per cent, or any proportion of true cash value which the legislature thinks is correct. That is what the amendment that the committee has proposed to you does up until January, 1966.

In conclusion, for the members of the majority party, let me say this: this matter of the proposition of true cash value of assessments, the 50 per cent clause which we seek to change here, is not part of the package. Just to be sure about it, I asked Mr. Brake if this was so this morning, and he said, "Yes,

unfortunately, Glen, it is so. I don't agree with your amendment, but you are right when you say it is not part of the package." Now, if it is not part of the package, let's all of us see what is the right thing to do here. Do we want to have this freeze? Do we want to have first the freeze of the 15 mill and then the freeze of the 50 per cent limitation? I don't want to see the double freeze. I do not want to see the double freeze. I want to permit the elasticity. Some communities need it.

I think that here, again, is the place where we have to put some reliance on our legislature. We are relying on the legislature until 1966. We are relying on the legislature after 1966 as long as it is less than 50 per cent. Let's rely on our legislature like we relied on the legislature from 1908 until now. We did have assessments during the depression at 70 per cent. We had the elasticity. I think that if we don't, something could happen in 1966. We invite a new amendment, initiated or by the legislature, to correct this. I don't want to draw a constitution which, in this section, lasts only for approximately 4 years. I would like to draw it so that there is the elasticity which we need. Mr. President, if I may, I yield to Mr. Stevens, who cosponsored this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Stevens.

MR. STEVENS: Mr. President, delegates, most of the things that I might say to you have already been said by Delegate Allen. I would only repeat this one thing: the tax bill the taxpayer pays, to him, is the amount of money on his tax bill whether the rate goes up or down. You can raise the valuation, you can cut the rates, you can cut the valuation and raise the rates, it doesn't make any difference to him. But we are now likely to be in a squeeze, and if you put a ceiling on both the rate and the valuation, certainly there is a limited amount of money that can be raised by taxing, by ad valorem taxes on general property.

Most of you are somewhat familiar with the situation in Detroit. It is compelled—it has no choice, under agreements with the state, but to cut the valuations on its personal property, which have undoubtedly been too high. It will have to do that. The only way you can make up for it is some increase on real property. Nobody wants their real property assessment increased. But the cold facts are—even though the Detroit papers are no longer being printed, you probably know from past reading and from reading other papers—Detroit is really in a bad way financially. It is not the fault of any one person. It is something that has developed over the years. The only way out is to increase the income. You can't decrease the outgo for reasons which I think are clear to you, particularly that that has already gone out. The money has been spent. The money is owed and we face, like the state of Michigan did not so long ago, the possibility of payless pay days and all the other embarrassments that come from a simple fact that a city, a state or an individual just does not have enough money to pay the bills.

This would not be a panacea but it would permit, with the aid and the permission of the legislature, a little help in the situation which the city of Detroit now faces. I take it that is true in Kalamazoo to a lesser degree, and most likely in some other cities which will need some way to raise more money. Certainly the legislature has not been very generous in giving Detroit an opportunity to raise money any other way. If they can't get at an income tax or pay roll tax or some other such way, the only way left is to either increase valuations or increase tax rates. If they can't do either, then I guess the only way out will be bankruptcy.

PRESIDENT NISBET: The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I am going to speak in favor of this amendment. I have another amendment which will go even further than this one, but I think this is a step in the right direction in that it does give the legislature some freedom to raise assessments above the 50 per cent of cash value level. I think Mr. Stevens made the strongest point that I would make, and that is that this provision without the amendment will cost the city of Detroit more money than we can measure at this time. Back in 1959 it would have cost the city of Detroit, the school districts, and

the county of Wayne close to \$30 million. Since then the city of Detroit has been lowering assessments, trying to get them down to the 50 per cent of cash value level. No one can be certain that the city of Detroit will be able to get down to the 50 per cent of cash value. If we impose this requirement in the constitution, then there will be no alternative except to get those properties or those types of properties that are being assessed above 50 per cent down to 50 per cent and, as Mr. Stevens has indicated, it will automatically shift the burden to home owners and I have a feeling that there are going to be some very unhappy people down in that area. So much for Detroit.

Let's discuss it, as Mr. Allen did, from the standpoint of whether or not this is an appropriate item to be included in the constitution. I submit that it is an unnecessary restriction on the power of the legislature to fix limits. I would remind you again that one of the reasons why this constitutional convention has been called is because many people felt that the legislature did not have the power or that there had been restrictions placed on the legislature in raising sufficient revenues to meet the cost of government. It is very difficult to disassociate the problems of local units of government from those of the state. The 2 have become quite interrelated, because local governments now rely on state aid, and to the degree that the local units of government are unable to meet their budgets, they will be seeking state aid.

What we are doing here is placing another restriction on taxing powers, making it more difficult for local units of government to raise revenue to meet their costs. This provision does not have the dignity of a mandate by the people. It can certainly be argued that, in regard to the 15 mill limitation, the people made the decision that they would like to have rates limited to 15 mills, and we have to consider very carefully when we decide to raise that limit. But the people have not spoken on this 50 per cent of cash value. This is an arbitrary decision that we are making in this constitution, and I submit it is not a proper decision for us to make. It is certainly more appropriate to leave it to the legislature to set that level as the economic cycle dictates.

I don't think there is any necessity for going into all of the other arguments that have been made. There is one other, that might be mentioned and that is that in the upper peninsula where the mining industry is operating. It has been said that this is perhaps the only industry where property is assessed at close to 100 per cent of cash value. If we require a reduction to 50 per cent of cash value, I can assure you that it will have a devastating effect upon the budgets of those local units of government up in the upper peninsula. I heartily support this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Madar.

MR. MADAR: I wanted to get over here so I could face some of the rest of the delegates from outstate, especially those who get more than their share of the taxes in return from the dollars they spend than we do down here in Detroit or Wayne county.

Mr. Austin spoke about how angry the home owners are going to be. Let's talk about how angry the owners of manufacturing plants are going to be. We are going to have to get money someplace or go bankrupt. Let's see how this affects you people out in the state who have been getting a lot of that tax dollar in return. Here is what is going to happen: we are going to lose that manufacturing plant. It is going to go down to Tennessee, Alabama, Georgia, North Carolina, South Carolina, and we are going to lose this tax dollar and we are going to lose it mighty fast, and we are going to go broke. This isn't just going to affect us; it is going to affect you. Because when we don't get that tax dollar, you are not going to get it either, and then you are going to have to raise your taxes out in the state. Sure, I know you are going to say: but we are going to make this 50 per cent. Sure, Mr. Brake and a few others can talk like that, but we have got to raise the money someplace. We have got to have it, because if we don't get it we're going to go bankrupt and we will lose everything we have got, and then you lose. Yes, those students out there [gallery] can understand that, even if you cannot.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, this matter was so thoroughly discussed when we were in committee of the whole that it would seem unnecessary to have any extended argument on it now. I assume that most of you have heard from your constituents in connection with this specific item. This is one of the most sanctified of all the sacred cows out over the state.

Mr. Austin said something about the people have had nothing to say about it. We have had resolutions from one board of supervisors after another, from other people interested in their government all asking that the 50 per cent limitation be applied. This is where we are now in nearly every place in Michigan. The state tax commission has been trying to get us on a straight 50 per cent basis. There are only a few spots where they are above the 50 per cent and we are giving them until 1966 to get straightened around. Mr. Austin has already pointed out that Detroit is on its way already to getting down to the 50 per cent level. I call your attention to one city where they voluntarily went down from about 70 per cent to 50 per cent and attribute the fact that they have 2 new factories in their city to that change in tax policy. Outstate people are very much interested in this 50 per cent limitation. I think the committee has acted as it should act, and we ask your support for it.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Allen and Mr. Stevens. The secretary will read the amendment.

SECRETARY CHASE: Mr. Allen and Mr. Stevens have offered the following amendment:

[The amendment was again read by the secretary. For text, see above, page 2642.]

MR. STEVENS: I request a division, please.

PRESIDENT NISBET: Division has been requested.

MR. AUSTIN: Mr. President, we demand the yeas and nays, please.

PRESIDENT NISBET: The yeas and nays have been requested. Is that demand seconded? Sufficient number up. Those in favor of the Allen-Stevens amendment will vote aye. Those opposed will vote nay. The question is on the Allen-Stevens amendment. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 59

Allen	Elliott, Mrs. Daisy	Mosier
Andrus, Miss	Everett	Murphy
Anspach	Follo	Pollock
Austin	Hannah, J. A.	Rajkovich
Baginski	Hart, Miss	Sablich
Balcer	Hatcher, Mrs.	Seyferth
Barthwell	Heideman	Snyder
Binkowski	Hodges	Staiger
Bonisteel	Hood	Stamm
Bradley	Jones	Sterrett
Buback	Judd, Mrs.	Stevens
Butler, Mrs.	Kelsey	Stopczynski
Conklin, Mrs.	King	Suzore
Cushman, Mrs.	Lesinski	Van Dusen
Danhof	Madar	Walker
DeVries	Mahinske	Wilkowski
Douglas	McCauley	Yeager
Downs	McGowan, Miss	Young
Durst	McLogan	Youngblood
Elliott, A. G.	Millard	

Nays — 65

Batchelor	Hatch	Pugsley
Bentley	Higgs	Radka
Bledsoe	Howes	Richards, J. B.
Boothby	Hoxie	Romney
Brake	Hubbs	Rood
Cudlip	Hutchinson	Rush
Dehnke	Iverson	Shackleton
Dell	Karn	Shaffer

Donnelly, Miss	Kirk, S.
Doty, Dean	Knirk, B.
Doty, Donald	Koeze, Mrs.
Erickson	Krolkowski
Farnsworth	Kuhn
Figy	Lawrence
Finch	Leibrand
Gadola	Leppien
Garvin	McAllister
Goebel	Nisbet
Gover	Page
Habermehl	Perras
Hanna, W. F.	Plank
Haskill	Prettie

Shanahan
Sharpe
Sleder
Spitler
Stafseth
Thomson
Turner
Tweedie
Upton
Wanger
White
Wood
Woelfenden

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Allen and Steven, the yeas are 59; the nays are 65.

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

SECRETARY CHASE: Messrs. Perras and Boothby offer the following amendment:

1. Amend page 1, line 16, [paragraph 2] after "subdivisions.", by inserting "No income tax shall be enacted into law in this state without a favorable vote at a general referendum on the question."

PRESIDENT NISBET: The Chair recognizes Mr. Perras.

MR. PERRAS: Mr. President, fellow delegates, before I turn this over to our expert on taxation, especially income tax, Mr. Boothby, I would like to speak briefly. I have always felt that in the area of taxation, especially income tax, the people should, by mandate, have the opportunity to vote for or against this taxation. I hope that if this does not prevail we will put an amendment in that if the income tax does come in, it will be held by constitution to 3 per cent. If we are to have an income tax, I think it should be placed in the constitution. Now I shall turn it over to Mr. Boothby.

PRESIDENT NISBET: The Chair recognizes Mr. Boothby.

MR. BOOTHBY: Mr. President, ladies and gentlemen of the convention, this amendment would provide that if an income tax is to be adopted in this state, that it can only be done after the people of the state of Michigan had spoken favorably on the issue. There are a few points that I wish to make in this regard.

First, we have in the constitution at the present time, and it is being proposed by our convention to write back in, a 4 per cent sales tax ceiling. In other words, you cannot exceed a 4 per cent sales tax except by a constitutional referendum. We saw, just a few years ago, where, in order to raise from 3 cents to 4 cents, it was necessary to have a constitutional referendum, a vote of the people. It would seem to me that in a situation where you're going to impose a whole new system of tax, the people should at least be allowed this particular kind of expression on a whole new system of taxation.

Second, the tax payer should be allowed to vote on legislation that will, in effect, constitute a lien on every taxpayer's check during the continuance of that tax.

Third, I would like to make an analogy with the 15 mill limitation. We have seen fit here today to write back into the constitution a 15 mill limitation. The reason for that is because we feel that property taxes are about at their capacity, and that if property taxes are to be raised they should only be done by vote of the people. Now, the federal government has already preempted the field of income tax, in my opinion, and it is at a confiscatory rate already. If the income tax is going to be raised, if we are going to increase the burden on the taxpayers as far as income tax is concerned, this ought to also be done by a vote of the people.

We must realize also that an income tax is different than many other taxes, because on an income tax you do more than tax the people; you also create a situation where government invades the privacy of the individual in seeking to find out what the records are that the individual taxpayers have. I would say this: that if the burden of an income tax is to be imposed on the people of this state, it should be self imposed. They should have the right to speak on this issue. I urge the adoption of this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Sterrett.
MR. STERRETT: Mr. President and delegates, in my opinion, this amendment is neither feasible nor practicable. This is like asking the legislature to reapportion itself. We have agreed here that this would not be done in the legislature as far as reapportionment goes, and asking the people to impose more taxes upon themselves would be practically impossible.

In November, 1960, there was a vote for an additional sales tax. This was taken as an alternate or the lesser of 2 evils. At that time they approved the 1 cent additional sales tax in hope that they would not be levied with an income tax. The legislature is responsible for adequate appropriations for the state of Michigan. Therefore, I feel it should be left up to the legislature in accordance with the provisions we have made in this constitution to permit them, if necessary, to impose an income tax on the people.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, the committee, of course, is violently opposed to this amendment. This would be restriction beyond anything we have now. Under the present constitution the legislature has the power to levy a flat rate income tax and, so far as the committee is concerned, should have under the new constitution. I trust we need not have further debate upon it.

PRESIDENT NISBET: The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I would like to support Mr. Sterrett's remarks and those of Mr. Brake. Taxation by referendum is a wholly undesirable procedure. People only vote on tax matters where the legislature has either failed to act or where there is a tendency to go in a direction that is in opposition to the will of the people. Such was the case when the people voted on the sales tax ceiling. This is language that we certainly can get along without in the constitution, and I would heartily oppose this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Hodges.

MR. HODGES: I rise in opposition to this amendment for the same reason I stated the other day when it was brought up in another form. We do have a representative form of government in this country, and it seems to me that in the first analysis it always should be in this body to decide whether we are going to have taxes or not. If we are going to adopt something like this, we should be consistent and state that people should have a first vote on every type of taxation. There is no reason to single out this one specific type of taxation.

PRESIDENT NISBET: The Chair recognizes Mr. Sterrett.

MR. STERRETT: Mr. President, I move the previous question.

PRESIDENT NISBET: The previous question has been demanded. Is the demand seconded? Sufficient number up. The question now is: shall the previous question be put? Those in favor will say aye. Opposed, no.

The previous question is ordered. The question now is on the amendment offered by Mr. Perras and Mr. Boothby. The secretary will read the amendment.

SECRETARY CHASE: The amendment offered by Messrs. Perras and Boothby is:

[The amendment was again read by the secretary. For text, see above, page 2644.]

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

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

SECRETARY CHASE: Messrs. DeVries, Higgs, Mrs. Koeze, Messrs. Danhof, Gust, Dade, Miss Hart, Mr. Binkowski and Miss McGowan offer the following amendment:

1. Amend page 1, following line 16, [paragraph 2] by adding a new paragraph to read as follows:

"Property held and occupied by a nonprofit corporation, association, or legal entity and used exclusively for religious, educational, charitable or burial grounds purposes, as defined by law, shall be exempt from real and personal property taxes."

The proponents, Messrs. DeVries, Higgs, Mrs. Koeze, Messrs. Danhof, Gust, Dade, Miss Hart, Mr. Binkowski and Miss McGowan, revise this amendment to read as follows:

1. Amend page 1, following line 16, [paragraph 2] by adding a new paragraph to read as follows:

"Property held by a nonprofit 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."

PRESIDENT NISBET: Mr. DeVries demands the yeas and nays. The Chair recognizes Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, recalling the length of debate on this matter in general orders, I move to limit debate on the amendment to 20 minutes.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen to limit debate to 20 minutes. Those in favor say aye. Opposed, no.

The motion prevails. The Chair recognizes Mr. DeVries.

MR. DEVRIES: Mr. President, members of the convention, a similar amendment was offered on first reading and lost by 8 votes. Since that time the sponsors of this amendment have taken into account the objections and the questions raised on the floor, and in the amendment which was handed out this morning, and on your desks, the underlined words are the changes that were made which seems to be the other amendment that was considered on first reading. Now, the underlined words: we have added the words, "property used and occupied exclusively;" we have added the words, "and occupied;" we have changed the words, "cemetery purposes" to "burial grounds purposes," at the request of Mr. Dean Doty, and if you have any questions on that you can ask him the reasons for that change; and we have added the words, "as defined by law," upon the request of Mr. Higgs.

So the legislature will define, as it does now, what these purposes will be for religious, charitable, educational, burial grounds and other purposes. Other states in this matter, just to briefly review for you—13 other states have similar self executing constitutional exemptions, 19 states have constitutions which authorize an exemption for property devoted to religious, charitable and educational purposes, but they need legislation to implement it; in 4 states the constitution gives the legislature option to exempt such property from taxation as it sees fit. The point is, 39 out of 50 states make recognition and provide for such exemptions. I think constitutional status for these exemptions is consistent with the historical concern of the people that religious, educational and charitable institutions shall be encouraged and advanced wherever possible. I would urge you to support this amendment. The new wording takes into account all the objections that I believe were raised on the floor on February 8. I would urge the adoption of the amendment and, Mr. President, I will yield to Mr. Higgs.

PRESIDENT NISBET: The Chair recognizes Mr. Higgs.

MR. HIGGS: Mr. President, fellow delegates, I have concurred in this amendment for the reasons stated by Delegate DeVries. The addition of the words, "as defined by law," satisfies basically my objections to the amendment as it was originally offered.

I would like to call your attention to the words, "used and occupied exclusively." It does not appear that way on the board, but this was the change which was recited by the secretary when he read it, with the concurrence of all of the sponsoring delegates that are present. The words "used and occupied exclusively for the purposes defined"—now the amendment appears accurately on the wall. What is involved here, in particular, is to avoid the lease and "sale back" arrangements which have been used in other states to operate businesses under the cloak of any one of these purposes. For instance, assuming—well, for instance, yankee stadium; then there are hotels. This is not confined to any particular church or organization. Many churches and organizations have used these perfectly lawful devices in other states to avoid taxation. Assuming the purchase of such a thing as an office building with 40 floors, 2 of which will be used and occupied for religious, educational or charitable purposes and perhaps 38 floors which are rented for profit, it is the purpose of the words "and occupied" to qualify "use" in such a way that the ultimate disposition of the profit will not control the definition

of the purposes. In other words, if the profits from a business enterprise are applied and devoted to such purposes, it will be taxable. If, however, the use is coupled with occupancy exclusively for such purposes, then the tax exemption does apply. It is our purpose, however, in applying this to office buildings, that that part of the building exclusively used and occupied would represent a tax exemptible proportion. In other words, in an office building, if 25 per cent of the building were used and occupied exclusively for such purposes, then in that event that same percentage would be entitled to the exemption.

This is somewhat, perhaps, of a detailed explanation, but it is a very significant and important item. This is, I think, a fairly concise statement. I believe it is well drafted. I believe it will satisfy everyone here. A real, genuine effort, I believe, has been made by all the parties concerned in order to put this in language which would be concise, accurate, and satisfy the questions that were raised following first reading. I would urge that you support this amendment as it is offered to you.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, this amendment was rejected by the committee of the whole when the matter was before us on first reading. The pressure since the time of first reading has been tremendous. I have had more mail on this issue than any other issue pending with the possible exception of the matter of a core city taxing the suburbanites, and in my case it has all been from one source.

This is a statutory exemption now. I don't know of anyone in the convention who doesn't think it should remain as an exemption. I don't know of anybody who thinks this property should be taxed. But it is a statutory exemption along with 12 or 15 other statutory exemptions. The thing that nobody has shown, nobody attempted to show in the committee and nobody has shown on the floor of this convention, is any reason whatsoever to believe that the legislature is going to take away this exemption. We haven't had a word of evidence that there was any danger of the legislature taking away this exemption, any more than taking away the other exemptions. As a matter of fact, I think there is much less danger of taking this away than some, at least, of the others.

Some of these days some city slicker over in the legislature is going to take away that exemption of 2 cows because there are not very many people who have 2 cows any more. Any legislator who would vote to take away this exemption would be so dumb that he would never be able to even get in the legislature. I know no reason why this ought to be put in the constitution of the state, leaving all other exemptions statutory. That is where this is, and where it belongs. I understand that this question was also presented to the committee on legislative powers. I trust that we may hear from the chairman of that committee.

PRESIDENT NISBET: The Chair recognizes Mr. Blandford.

MR. BLANDFORD: Mr. President, fellow delegates, I would have to concur with Delegate Brake that this has been the object of a lot of correspondence. I would like to say at the outset that Committee Proposal 51 certainly has been the object of much misleading information. Whether it was intentional or not, I cannot say. Certainly someone has tried to spread the idea that a vote against Committee Proposal 51 is a vote against tax exemptions for churches and schools. Of course, as we all know, this is not true. A vote against Committee Proposal 51 is merely a vote against putting into the constitution something that is presently covered by statute. I don't believe that we here intend to give constitutional status to every piece of legislation that is now on the books.

Furthermore, in my judgment, writing this provision in the constitution might well hinder rather than help churches and schools. We hope we are writing a constitution here for the next 50 or 100 years, and the trend might well be, and I sense it is, toward the granting of more exemptions to churches and schools, not less. For example, this amendment states that to be tax exempt the property must be held, used and occupied. That is "and occupied" not "held or occupied." In other words, it applies to property actually occupied. Now possibly sometime

in the future the legislature might wish to become a little more liberal in this field. In some states charitable institutions own commercial parking lots, and are exempted from paying taxes on these lots. Now I don't advocate this, but I merely point out that Committee Proposal 51 with the added language might have the opposite effect from that which is intended. The language might prove in the next 50 years to be a tight collar around the neck of the churches and schools. By leaving the matter of tax exemptions solely in the hands of the legislature, I feel that changes can be made in keeping with the changes and people's feelings on the matter. In my judgment, by writing this provision into the constitution, we are removing flexibility in the field of tax exemptions.

Of course, you all know that there is no present provision like this in the constitution. I feel that churches and schools have fared very well in the past, and will continue to fare very well in the future. I voted against this in the first instance and I intend to vote against it this time.

PRESIDENT NISBET: The Chair recognizes Judge Mosier.

MR. MOSIER: Mr. President and fellow delegates, Mr. Brake has covered largely what I intended to say, but there is one point that I think has been overlooked not only in the debate here today, but when the matter was considered before. The language that is used here would seek to relieve from taxation all property owned and occupied by religious, educational, charitable or other institutions, but it does not provide for the exemption that the policy of the law has been for years to require such institutions to pay special assessments that might be levied for paving, for sewers, for sidewalks, or any other special assessments, and certainly in the language that is here presented it would be improper to write such a clause into the constitution.

We are dealing here largely with a legislative matter, and I believe that the legislature has been favorable to these institutions in the past and will be in the future, and for these reasons I am opposing the amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Millard.

MR. MILLARD: Mr. President and members of the convention, Mr. Brake has largely covered the matter of tax exemptions. I want to say that this proposition first came to the committee on legislative powers and was referred to my subcommittee. At that time, we decided it was purely legislative. We looked up and saw where tax exemptions had been taken care of by the legislature; there was no particular need for it. There had been no pressure, there was no evidence that came to us that the legislature intended to change its mind. Our committee decided that it was not necessary. Later it was transferred over to the finance and taxation committee, and you have heard what Mr. Brake, the chairman, had to say about it. I am decidedly against this amendment, and I urge everybody to vote against it.

PRESIDENT NISBET: The Chair recognizes Mr. Lawrence.

MR. LAWRENCE: Mr. President, I wonder if, through the Chair, I could ask a question of Mr. DeVries?

PRESIDENT NISBET: If Mr. DeVries cares to answer.

MR. LAWRENCE: Mr. DeVries what does the second word in the amendment mean, "held," h-e-l-d?

MR. DEVRIES: Mr. President, Mr. Lawrence, I will yield to Mr. Danhof for the answer on that one.

PRESIDENT NISBET: The Chair recognizes Mr. Danhof.

MR. DANHOF: Mr. Lawrence, it was suggested first that we should use the word "owned," and I concurred in that. Ownership is something that as lawyers we understand. However, when I checked with a gentleman who is more familiar with some of the laws of some of the churches, and particularly with the catholic church, I found that it is all titled in the name of the bishop, or the archbishop, as I understand it.

Now, what we intend here is where it is not only occupied but it is held exclusively, they have the complete control, they have the complete use of it to the exclusion of everyone else. It is possible, however, that the legal title might not vest in the particular entity which is utilizing the particular building. For instance, it is possible that a building could be owned by a trust, charitable trust, and then turned over to

another legal entity for operation as a hospital or as a church. The second entity, be it a corporation or association, would actually be in absolute full control of the premises, would have all the indicia of ownership as we know it, except the bare legal title. This is what I envision by the word "held," Mr. Lawrence.

MR. LAWRENCE: Thank you. Then wouldn't this be true, Mr. Danhof, through the Chair: if I personally own a house and rent it to a church for a parsonage, it would go off the tax roll?

MR. DANHOF: That may be your conclusion, Mr. Lawrence. You aren't going to get me to agree to it.

PRESIDENT NISBET: Mr. Lawrence.

MR. LAWRENCE: Well, I didn't ask Mr. Danhof to agree to it. I asked you a question. Wouldn't it be true? My contention on this is this: the church would hold the property, the house, just as much as a group operating a hospital would hold the hospital. I urge you to vote against this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Gust.

MR. GUST: Mr. President, members of the convention, I would just like to say that what Mr. Brake says is essentially true. This is probably more legislative than constitutional as a proper subject matter. However, I don't see why we should exclude it from our new constitution on this ground alone, because I think everybody in this room knows that we have included many things in here that all of us agree, or most all of us agree, is more legislative than constitutional. The legislature, it is true, hasn't shown any disposition to date to tamper with this particular subject matter, but that is no guarantee as to what they will do in the future. Dumb legislation is not unheard of in this state, and a week ago I would have bet my bottom dollar when I left the convention hall for 15 minutes that no delegate to this convention would conceive of offering an amendment to exclude pari-mutuel betting in the state of Michigan, and when I came back here I found that quite to the contrary. If there is nothing wrong with it, let's put it into the constitution. It won't hurt anything, and it will make a lot of people very happy.

PRESIDENT NISBET: The time has expired. The question now is on the amendment offered by Mr. DeVries, et al. Mr. Chase will read the amendment.

SECRETARY CHASE: The amendment offered by Mr. DeVries and others is:

[The amendment was again read by the secretary. For text, see above, page 2645.]

Messrs. Austin, Norris and Young offer the following amendment to the amendment:

1. Amend the amendment, after "religious" by striking out the comma and "educational, charitable"; so that the language will then read:

Property held by a nonprofit corporation, association, or legal entity and used and occupied exclusively for religious or burial grounds purposes, as defined by law, shall be exempt from real and personal property taxes.

MR. NORRIS: Mr. Chase, do I understand the time limit applies to this amendment?

MR. CHASE: Yes.

MR. KUHN: Mr. President.

PRESIDENT NISBET: Mr. Kuhn.

MR. KUHN: May I ask to have the question divided on the amendment to the amendment so we can vote separately on the word "charitable" as well as the word "educational?"

PRESIDENT NISBET: The question is asked to be divided. The question now is on the amendment offered by Messrs. Austin, Norris and Young, first part.

[The amendment to the amendment, first part, reads as follows:

1. Amend the amendment, after "religious" by striking out the comma and "educational".]

MR. AUSTIN: Parliamentary inquiry, Mr. President. If the time fixed for debate on the amendment has expired, is debate permitted on any amendment to the amendment?

PRESIDENT NISBET: The Chair will rule that debate on any amendment to the amendment would not be in order.

MR. VAN DUSEN: Mr. President, I had not realized at the time I made the motion that there were amendments to the amendment pending. I would move that 5 minutes be allowed for debate on each amendment to the amendment.

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

The motion prevails. The question now is on the Austin amendment, first part, as it applies to the word "educational." There is a second part to his amendment, and there is then another amendment, and 5 minutes are allowed for each of those 3. Mr. Austin.

MR. AUSTIN: Mr. President, this is one of those amendments—I am referring now to the DeVries amendment—that puts you in the kind of spot that Mr. Downs often refers to, and that is whether you are still beating your wife and children. I don't believe that anyone here is against churches. I don't believe that anyone here would like to see church organizations denied tax exemptions, and there has been no indication in the legislature that they will be denied. However, when we consider that we now have legislation which provides for the exemption of organizations, nonprofit organizations, for properties used exclusively for religious, educational, charitable and burial grounds purposes, when we consider that we now have legislation that provides this exemption, there is no need to dignify the exemption with constitutional status. As a matter of fact, by dignifying it with constitutional status we lead to a lot of serious problems, and some of these were raised by Judge Mosier and by Mr. Lawrence. The problems that they raise are easy to solve as long as this is a legislative matter, but once it is in the constitution we make it difficult for the legislature to do very much about some of the problems that are raised.

I would just like to point to one that was not mentioned by either Judge Mosier or Mr. Lawrence, and that is in the case of burial grounds. I think that the general property law provides for exemption of burial grounds from taxation whether it is owned by a nonprofit corporation or a profit corporation. In short, there is actually no tax to be paid on burial grounds. I don't know how it would be interpreted with this type of a provision in the constitution. It may be possible that the legislature could not exclude burial grounds owned by profit institutions.

Another very serious problem is this: there are some very giant charitable installations being developed in some centers of our state, particularly down in the city of Detroit, where we have a giant medical center under development which will comprise some 50 blocks. It will pay no taxes. Its users from neighboring communities will pay no taxes. And if the Bowman bill becomes a law, it will become very obvious that they will contribute nothing toward the maintenance of the streets, lighting, and for the provision of police protection and fire protection for this giant installation, and yet it will be consuming a considerable amount of city services. And yet, if we were to include in the constitution this provision, it would become impossible for the city of Detroit, or any local government for that matter, to ever attempt to collect, in any form, the payment for services that might be used by these giant installations, and it is certainly possible that local government may require some payment for services in the future; especially since they will be occupying such a large portion of the city's property.

And, then of course, there is another problem, and that is the one of discrimination. Many of these charitable institutions do practice discrimination against the very taxpayers who are supporting them, and we must not forget that a tax exempt status or a tax exemption is a form of governmental subsidy which ought to be encouraged to encourage people to render useful public service at private expense. But when they are the beneficiaries of tax proceeds, as they would be if they have a tax exemption, they should not be permitted to discriminate against any of the taxpayers who are supporting them, and yet they are outside of the equal protection laws.

PRESIDENT NISBET: Your time is up, Mr. Austin.

MR. AUSTIN: Thank you very much, and I would certainly recommend that we delete these 2 words, and then that would leave the amendment applying entirely to churches.

PRESIDENT NISBET: The secretary will read the amendment so there will be no mistake.

SECRETARY CHASE: The present amendment as divided is:

1. Amend the amendment, after "religious" by striking out the comma and "educational".

PRESIDENT NISBET: The question is on the amendment, first part, offered by Mr. Austin to the amendment. Those in favor will say aye. Those opposed, no.

The amendment is not adopted. We will now vote on the second part of the amendment.

SECRETARY CHASE: The second part of the amendment is:

1. Amend the amendment, after "educational" by striking out the comma and "charitable"; so that the language will then read, "Property held by a nonprofit corporation, association, or legal entity and used and occupied exclusively for religious, educational or burial grounds purposes. . . ."

PRESIDENT NISBET: The question is on the amendment, second part, offered by Mr. Austin to the DeVries amendment. Those in favor will say aye. Opposed, no.

The amendment is not adopted. There is one more amendment.

SECRETARY CHASE: Messrs. Garvin and Murphy offer the following amendment to the DeVries amendment:

1. Amend the amendment, at the end thereof, after "taxes.", by adding "This exemption shall be denied whenever said corporation, association or legal entity is in violation of the constitution or laws of this state. Nothing contained herein shall prevent a religious organization from giving preference to the members of its own faith based solely upon religion."

PRESIDENT NISBET: There are 5 minutes on this amendment. Mr. Garvin.

MR. GARVIN: Mr. President and delegates, this is merely an amendment that has been mentioned several times. It is really because of this: you notice that the proposed amendment that this is an amendment to, places a period after the various exemptions, which only means this, actually: that a charitable organization, regardless of the category under which it comes as listed here, religious, educational or a nonprofit corporation used exclusively for charitable purposes, may violate the law if it wishes, because it is in the constitution. Therefore, there is nothing that can be done about it.

Now, some people will say, some of you will say: well, they can always go to court and be prosecuted, and all of that, but during this 2 or 3 years or 4 years, and maybe longer, these persons can go ahead and violate the law and the constitution that you are writing right now, including the general laws of this state. I haven't included in here ordinances, but the laws of the state and the constitution, they can continue violating the same. Now, do not feel that I am talking about any particular kind of violation, or violation of any particular part of this constitution or any law. I am speaking of any law, or any part of this constitution in violation thereof, and during this time each of you and all of us are paying taxes to maintain that organization, that organization which is in violation of the law. It is not only the property owners that are paying. We are indirectly paying in a backhanded manner even if we go to the grocery store and buy milk, bread, penicillin, insulin, because the extra 1 cent sales tax might not be there if it were not for this particular organization or maybe some other organization violating the law that you have enacted in this constitution, and that the legislature has been enacting for years, and right now. Maybe you can't realize the various ways that this may happen, but they can and they do.

Now, I say that is an indirect way of approaching it, but it is true that each person of the state of Michigan assists in this by not receiving taxes from someone who is violating the law. It is true that someone may question whether it is a good idea or not, but I submit to you that it is very important if you place something in the constitution like the amendment proposed without

also placing some restriction against them of violating any law. You run the risk of where they can continue to take your money and my money, if I have any, to foster this organization.

Now, I wanted to bring out to you, of course, the question of nonprofit corporations for charitable purposes. That is rather indefinite, too, as some of you know. Some of you know that in many charitable organizations, their charity is strictly on the basis of a very nominal amount that they give, because their money is used for salaries and maintenance and so forth. As a result the charitable organization is often for the benefit of those who organize the same and who are working for the same. It was stated, I believe, by Mr. DeVries that in practically all of the states that he mentioned, 19 particularly, that legislation implements the constitution in reference to exemptions. I have no objections to exemptions for religious organizations; I have no objections to exemptions for educational organizations; perhaps I do not for charitable organizations; but I do have an objection for these, any of them, having an exemption without a provision placed in here as provided by our amendment that is on the board. Thank you.

PRESIDENT NISBET: The question now is on the amendment offered by Mr. Garvin and Mr. Murphy to the DeVries amendment. Those in favor of that amendment will vote aye. Those opposed, no.

The amendment is not adopted. The question now is on the amendment offered by Mr. DeVries and others. The yeas and nays have been demanded.

MR. VAN DUSEN: Mr. President, Mr. DeVries has requested an additional 5 minutes. I am personally disposed to grant it to him, and would move the extension of debate 5 minutes, if there is no objection.

PRESIDENT NISBET: The question is on the motion of Mr. Van Dusen. Those in favor will say aye. Those opposed, no. The motion does not prevail. The question now is on the amendment offered by Mr. DeVries. The yeas and nays have been demanded. Is that demand supported? Sufficient number up. Mr. Brown.

MR. G. E. BROWN. Point of information. Several that I have talked to are concerned about the words "as defined by law." I would like to address this one question to Mr. DeVries. Is it your intention, so the record will be clear, that this relates to all the foregoing language?

MR. DEVRIES: Mr. President, Mr. Brown, yes, sir.

PRESIDENT NISBET: Those in favor of the DeVries amendment will vote aye. Those opposed—Mr. Hodges.

MR. HODGES: I have a question of Mr. DeVries.

PRESIDENT NISBET: The time has expired, Mr. Hodges. Ask the question.

MR. HODGES: Mr. DeVries, is it my understanding that the proponents of this measure intend to have a comment prepared that would explain, "as defined by law" to take care of discriminatory practices that might come up statutorily? Is that true?

MR. DEVRIES: Mr. President, Mr. Hodges, we had hoped that in the two 5 minute periods allotted, Mr. Everett would have a chance to make that explanation, and since the debate was cut off, and we did not have any more time—I guess I can't take any more time, and I guess he can't either—I would like to yield to him for the answer to that question if I may.

PRESIDENT NISBET: Time has expired.

MR. HODGES: Mr. President, may I request a 5 minute extension for this purpose?

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

The motion does not prevail. The question now is on the DeVries amendment. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 65

Andrus, Miss	Hatcher, Mrs.	Plank
Anspach	Heideman	Rajkovich
Baginski	Higgs	Romney

Balcer	Hodges	Sablich
Barthwell	Hood	Seyferth
Batchelor	Hutchinson	Shackleton
Beaman	Iverson	Shaffer
Bentley	Kelsey	Sleder
Binkowski	Knirk, B.	Snyder
Bledsoe	Koeze, Mrs.	Spitler
Brown, G. E.	Krolkowski	Stamm
Buback	Kuhn	Sterrett
Conklin, Mrs.	Leibrand	Stevens
Cudlip	Leppien	Stopczynski
Danhof	Liberato	Suzore
DeVries	Madar	Tweedie
Downs	Mahinske	Walker
Erickson	McCauley	White
Everett	McGowan, Miss	Wilkowski
Gust	McLogan	Woolfenden
Hannah, J. A.	Nisbet	Youngblood
Hart, Miss	Perras	

Nays — 57

Austin	Gover	Pollock
Blandford	Habermehl	Powell
Bonisteel	Hanna, W. F.	Prettie
Boothby	Haskill	Pugsley
Bradley	Hatch	Radka
Brake	Howes	Richards, J. B.
Cushman, Mrs.	Hoxie	Rood
Dehnke	Hubbs	Rush
Dell	Jones	Shanahan
Donnelly, Miss	Judd, Mrs.	Sharpe
Doty, Donald	Karn	Stafseth
Douglas	King	Staiger
Durst	Kirk, S.	Thomson
Elliott, A. G.	Lawrence	Turner
Farnsworth	McAllister	Upton
Figy	Millard	Van Dusen
Finch	Mosier	Wanger
Follo	Norris	Wood
Goebel	Page	Yeager

SECRETARY CHASE: On the adoption of the amendment offered by Mr. DeVries and others, the yeas are 65; the nays are 57.

PRESIDENT NISBET: The amendment is adopted.

Following is explanation of vote submitted by Mr. Everett:

Re: Explanation of my vote on the DeVries amendment to Committee Proposal 51.

I voted for the amendment because I believe in it. Since the issue was raised, I think the record should be clear, that the convention's action should not be construed as permitting discriminatory practices to be supported by tax relief.

Because of the limitation of debate, this could not be said on the floor. In conference with a number of the proponents, it was felt that the term, "as defined by law," is broad enough to permit legislative action barring discrimination. Many of the supporters of the DeVries amendment, myself included, felt that a constitutional statement to this effect was not proper. The legislature should have, and we believe under this provision does have, the power to make the necessary determination of what may be proper limitation of facilities in schools, hospitals, etc., to people of a particular sect or group, and what would be an improper discrimination. Certainly the latter should apply to any hospital open to the public and receiving public support and assistance.

Following is explanation of vote submitted by Mr. Norris:

I respectfully submit the following reasons in support of my vote on the amendment of Delegate DeVries and others amending Committee Proposal 51, which amendment reads as follows:

Amend Committee Proposal 51 on page 1, following line 16, by adding a new paragraph to read as follows:

"Property held by a nonprofit 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."

1. I believe that such exemptions ought to continue to be statutory. Flexibility is required in order to enable the legislature to deal with precision with the "holding," "occupancy," "use" of such property for "such purposes." A number of instances have occurred where some large business interests have used technical concepts such as "educational" and "charitable" as means to avoid taxes. Moreover, partial exemptions, such as a 50 per cent exemption would be prohibited by flat absolute "exemptions." Statutory flexibility is necessary to deal with these problems.

2. The purpose of the exemption of a church or synagogue is to implement the fundamental, inalienable freedom of worship and of conscience. I would therefore support constitutional protection of the exemption for houses of worship. Beyond religious purposes, exemptions must be dealt with with delicacy and flexibility in order to deal with abuses without endangering religious freedom.

3. There are dangers to religious freedom in the expansion of real estate and commercial holdings of religious, educational and charitable holdings. Bishop Blake of the Presbyterian church has called public attention to the extent and variety of such holdings. This variety and extent, in his opinion, cannot be reconciled with the freedom and purpose of religion. In the long run the holdings may be such as to arouse a public opinion to a degree that measures would be adopted that would endanger freedom of religion, worship and conscience. I believe events in other countries substantiate the reasonableness of this apprehension.

4. It is the purpose of the constitutional concept of separation of church and state to protect religious freedom. According to Justice Frank Murphy, religious freedom is best promoted by avoiding the fact and the appearance of state control. This idea first stated by Thomas Jefferson has resulted in unparalleled growth of religious freedom and institutions in the United States. However, the proposed amendment, coupled with other clauses in the constitution such as section 1 of the education article and certain statutes, would form a basis for judicial and legislative action that would further breach the wall of separation of church and state and thus impair freedom of religion and conscience.

5. Moreover, absent are any safeguards against the use of tax exempt status, as state action, to prevent segregation and discrimination by educational and charitable institutions.

Following is explanation of vote submitted by Mr. Wanger:

I voted against the DeVries, et al, amendment to Committee Proposal 51 on April 19 regarding exemption from taxation of real and personal property, "Property held by a nonprofit corporation, association, or legal entity and used and occupied exclusively for religious, educational, charitable or burial grounds purposes, as defined by law . . ." for the following reasons:

First, because the matter of tax exemption is fundamentally a matter for legislation, rather than for inclusion in a constitution, and because the Michigan legislature has long granted such tax exemptions as the DeVries amendment intends to provide and it does not appear — nor has it been suggested — that this policy will ever be reversed or modified.

Second, because, as pointed out in part by Delegate Lawrence, the specific language of the DeVries amendment can be reasonably interpreted to open the door to gross abuses of the tax exemption policy of the state for private gain. The words "property held" appear to apply to property, which the "nonprofit corporation, association, or legal entity" has leased, rented or otherwise holds by an estate for years. This means that the owner of the property, who may be an ordinary private individual or business for profit, will be receiving his usual rent or lease payments but will not have to pay any property tax at all.

I am in favor of proper tax exemptions for religious, educational and charitable purposes.

SECRETARY CHASE: Messrs. Baginski, Jones, Barthwell, Binkowski and Douglas offer the following amendment:

1. Amend page 1, following line 16, [paragraph 2] by adding a new paragraph to read as follows:

"The legislature shall have the power to exempt homesteads of retirees from ad valorem taxation."

PRESIDENT NISBET: Mr. Baginski.

MR. BAGINSKI: Mr. President, delegates to this convention, we have talked exemptions for religious groups, nonprofit corporations, and I think it may be time that we started to think about the retirees who have attained the ripe old age of 65 who have to appear before our city council, for instance, in the city of Detroit, whose income perhaps may be \$1200 to \$1400 a year, and whose taxes are \$350 to \$400; which leaves them approximately \$800 a year to live on. I think we should give them some consideration this afternoon. Our amendment does not specify any particular age, nor does it give any amount that they should earn, but we leave this to the legislature, and we also ask them to make the provisions for it and ask that this convention go on record with this amendment as a statement of policy as the feelings of this convention toward retirees. I do hope that this amendment is adopted.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, the legislature already has this power. Let's not write into the constitution all the exemptions that we have in the statute books, or that have been proposed for the statute books. This can be taken care of by the legislature.

PRESIDENT NISBET: Mr. Jones.

MR. JONES: Mr. President and fellow delegates, I urge your support for this amendment. I think it is high time that some effort was made by this convention to go on record in favor of some tax relief for those retirees living on a fixed income. As a member of the emerging problems committee, I had the opportunity to listen to representatives from the Redford senior citizens club of Redford township, and believe me these people are in desperate financial straits with the advent of higher property taxation. These people pleaded with the emerging problems committee to see if we couldn't do something about this. I know that there are senior citizens in all other parts of our state, not only Redford township. Therefore, I strongly urge the adoption of this amendment before you. Thank you.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: I just wish to state, Mr. President, there are several of the states that have this in their constitution. Mr. Brake says we don't have to worry about the legislature. It seems to me that on several occasions Mr. Brake has been worried about our legislature and insisted on things being put into the constitution. I think we had better take care of this here now, too, and take care of our retirees.

PRESIDENT NISBET: Mr. Yeager.

MR. YEAGER: I would like to ask Mr. Baginski a question, Mr. President.

PRESIDENT NISBET: If Mr. Baginski cares to answer.

MR. YEAGER: How do you think the legislature would define retirees?

MR. BAGINSKI: My answer would be, Mr. Yeager, that they would make that determination.

PRESIDENT NISBET: The Chair recognizes Mr. Barthwell.

MR. BARTHWELL: I will ask for the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? A sufficient number up. The question is on the amendment offered by Mr. Baginski, et al. The secretary will read the amendment.

SECRETARY CHASE: The amendment is:

PRESIDENT NISBET: Those in favor of the amendment will vote aye. Those opposed, will vote nay.

A DELEGATE: Will you ring the bell, please?

SECRETARY CHASE: I wish I could. This bell has been giving me trouble all day.

PRESIDENT NISBET: Will the pages notify the delegates in the hall? Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas — 39

Baginski	Gust	Madar
Balcer	Hart, Miss	Mahinske
Barthwell	Hatcher, Mrs.	Murphy
Bentley	Heideman	Norris
Binkowski	Hodges	Perras
Bledsoe	Hood	Sablich
Buback	Jones	Snyder
Butler, Mrs.	Kelsey	Stopczynski
Douglas	Krolikowski	Suzore
Downs	Lawrence	Walker
Durst	Leppien	Wilkowski
Finch	Lesinski	Young
Garvin	Liberato	Youngblood

Nays — 82

Allen	Habermehl	Prettie
Andrus, Miss	Hanna, W. F.	Pugsley
Batchelor	Hannah, J. A.	Radka
Beaman	Haskill	Rajkovich
Blandford	Hatch	Richards, J. B.
Boothby	Howes	Romney
Bradley	Hoxie	Rood
Brake	Hubbs	Rush
Brown, G. E.	Hutchinson	Seyferth
Conklin, Mrs.	Iverson	Shackleton
Cudlip	Judd, Mrs.	Shaffer
Cushman, Mrs.	Karn	Shanahan
Danhof	King	Sharpe
Dehnke	Kirk, S.	Sleder
Dell	Knirk, B.	Stafseth
DeVries	Koeze, Mrs.	Staiger
Donnelly, Miss	Kuhn	Stevens
Doty, Dean	Leibrand	Thomson
Doty, Donald	McCauley	Turner
Elliott, A. G.	McLogan	Tweedie
Erickson	Millard	Upton
Everett	Mosier	Van Dusen
Farnsworth	Nisbet	Wanger
Figy	Page	White
Follo	Plank	Wood
Gadola	Pollock	Woolfenden
Goebel	Powell	Yeager
Gover		

SECRETARY CHASE: On the adoption of the amendment offered by Messrs. Baginski and others, the yeas are 39; the nays are 82.

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

MR. MADAR: Mr. President, I would like, if possible, to get the permission of the delegation to amend this particular — that is, to add to this particular amendment, after "retirees" the words "of 65 years of age or over" from ad valorem taxation. That would change it —

PRESIDENT NISBET: Mr. Madar, this amendment has been defeated. You would have to present a new amendment.

MR. MADAR: That is what I will do, then. With the delegates' permission, I would like to add a new amendment here.

PRESIDENT NISBET: You may present a new amendment.

MR. MADAR: Thank you.

PRESIDENT NISBET: The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Austin, Binkowski and Young offer the following amendment:

1. Amend page 1, following "Sec. a.", by striking out the balance of the section and inserting "The legislature may by law authorize or impose ad valorem and other taxes which shall be uniform within the classes of persons or property to which

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

they are applied. The legislature shall provide by law for the determination of the true cash value of property subjected to ad valorem taxation and shall specify the proportion of true cash value at which such property shall be assessed, and shall provide by law for a system of equalization of assessments. The legislature may provide by law for alternative means of taxing property in lieu of general ad valorem taxation.”

PRESIDENT NISBET: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, this amendment offered by Mr. Austin is a substitute for the entire committee proposal, as I understand it. I have discussed it with Mr. Austin, the time required for debate, and in accordance with our understanding I would move to limit debate on the Austin amendment and any amendments thereto to 20 minutes.

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

The motion prevails. The time limit on this amendment is 20 minutes. The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President, fellow delegates, this is a rather involved subject, and I am reluctant to approach it at this time knowing how the delegates feel about getting away from the convention before the holiday. In a way I am pleased that Delegate Van Dusen has asked that the time be limited, because maybe we will all be compelled to make up our minds quickly on this. But this is a rather important subject, and I do hope that I will have your careful attention while I try to analyze what is involved here.

The proposal which the committee submitted actually covers 3 areas: first, it provides for uniform assessment of property; secondly, that property shall be assessed at 50 per cent of its cash value and, at the same time of course, it provides for alternative forms of taxation of property; and then thirdly, it provides for uniform assessment of other taxes, and that there shall not be a prohibition against a graduated income tax. All of these are in one proposal.

What we are seeking to do here is to substitute new language for the whole proposal, and in effect this is what we will accomplish if this amendment is adopted: first of all it will provide that property shall be uniformly assessed, but within whatever classes the legislature decides to establish for the assessment of property; secondly, that property shall be assessed at whatever level of cash value the legislature should decide. There is no need for me to belabor this point, because we have debated it at length, already. We do provide for alternative means of taxation of property, and we also provide in the first sentence that the legislature may levy other taxes, which gives the legislature whatever power it needs to levy whatever taxes are needed to pay the cost of government; and the third point that we have sought to accomplish is that of not including a prohibition of a graduated income tax. This we believe is unconscionable, to include such a provision in the constitution.

We have already presented at length arguments in regard to all of the points that I have raised, but I do think that it is appropriate at this point to at least refresh your memory on some of the arguments that we have raised against a prohibition of a graduated income tax. In recommending that the last paragraph of the committee proposal be deleted, and that is the one which includes the prohibition to the graduated income tax, we, the proponents of this amendment, do not advocate that any income tax be levied; we do not advocate that a flat rate income tax be levied, nor do we advocate a graduated income tax. I want this point made absolutely clear, that we are advocating no income tax whatever. This is a matter which should be decided by the legislature. It is a legislative matter, and I think we will all agree that it ought to be left to the legislature to make the decision.

Now the arguments that we offer are as follows: by including in the constitution a prohibition to a graduated income tax, we freeze into the constitution unnecessary and undesirable restrictions on the legislative power to levy taxes in the future. And there has been no authority cited for the advisability of inserting this unique provision in a state constitution. It is not found in any other state constitution. It does not make allowance for drastically changed circumstances beyond our present anticipation. The prohibition of a graduated income

tax, statutory in nature, doesn't have the fateful sanctity of other restrictive measures that we have written into the constitution, such as the sales tax rate limitations that were achieved through prior approval of the people at the polls. There has been no expression of the people at the polls on this question, and we have no mandate to include it in the constitution. Thirdly, it freezes present and potential inequities into the Michigan tax structure—and this is exceedingly important—it freezes present and potential inequities into the Michigan tax structure by prohibiting the legislature from correcting them should it desire to do so by levying a form of taxation which might be more equitable in its structure.

It has been said that the federal government has preempted the field of income taxation, and particularly graduated income taxation. Certainly there is no legal authority for this assumption, and if we feel that the federal government has preempted the income tax field, then we have to admit that the federal government has preempted all tax fields, because all taxes have to be paid out of income, whether they be based on sales or on property. They must be paid out of income.

Fourth, progressive taxation accomplished through a graduated rate structure is not a device for social reform. This is one point that I think you should remember, too. Progressive taxation accomplished through a graduated rate structure is not a device for social reform. On the contrary, it is a very equitable device for raising the maximum amount of revenue without unduly burdening an individual taxpayer on the basis of his ability to pay. Now, we admit there is obviously a basic difference of opinion and emphasis on equity and what equity means in the Michigan tax system between those of us who propose this amendment and the committee. The emphasis there, we admit, is mostly on equity for business and not so much for low income taxpayers, and those who are on fixed incomes. We submit that we have to take equity for both into account. We cannot think only in terms of our business taxpayers; we must think of the people, also.

Ignored in the committee proposal is the experience of the overwhelming majority of the states which have income taxes. All but two, 33 out of 35, have adopted graduated rate structures. Michigan would be placed in a unique category and at a potential disadvantage in relationship to other states in its ability to raise revenue from income taxation. The experience with the federal income tax has been raised also on occasions as one of the objections to a graduated rate structure here in the state of Michigan. We argue to the contrary, and this again is one of our very important points. We argue that the very existence of the steeply graduated federal rate structure should be one of the important reasons for adopting a graduated structure at the state level because of the deductibility of state income tax in an area which has federal liability. The impact of the state tax at the higher income levels would be softened thereby. I think most of you will recall that I submitted charts to illustrate that very point; that if we do not have or if we do not permit the legislature, should it desire to do so, to graduate rate structures, Michigan will be contributing disproportionately to federal projects, and this we believe would be an undesirable development. So much for the graduated income tax.

As for the uniformity clause which relates to property, I want to make one brief statement, and that is this: that there is no reason why we should not permit the legislature to classify property for assessment purposes. If, for example, the legislature should feel that it is desirable to classify the property of job producing industry differently from that of industry that feeds off of the local economy, it ought to have the right to do so; and any other classification that it ought to feel it would like to take into account. We believe that the legislature needs this freedom. We do not believe in taxation by referendum, and we are hopeful that the delegates will adopt this amendment.

PRESIDENT NISBET: The Chair recognizes Mr. Finch.

MR. FINCH: Mr. President, I would like to ask Mr. Austin what is meant by classes of persons, the phrase “classes of persons?”

MR. AUSTIN: I gave an example when I said that the legislature might want to classify, let us say, a taxpayer who

has a business, a retail business, for example, that feeds off the local economy differently from one that is involved in a national industry that does not have to locate here in Michigan. I think a good example would be an automobile manufacturer who could locate his plant in Ohio, Indiana or Michigan, as well. It would not matter.

MR. FINCH: Okay, that answers it.

MR. AUSTIN: Mr. President, I would demand the yeas and nays on this.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand supported? Sufficient number up. Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, all of these arguments were made to the finance committee and rejected. They were all made to this convention on the floor here and rejected. I trust that we are now ready to vote.

PRESIDENT NISBET: The Chair recognizes Mr. Karn.

MR. KARN: A question, Mr. President, to Mr. Austin, if I may, please.

PRESIDENT NISBET: If Mr. Austin cares to answer.

MR. KARN: The language that says, "a system of equalization of assessments." Are you talking about an equalization of assessments for the state as a whole?

MR. AUSTIN: Mr. President, Mr. Karn, that is correct. We have in mind that there should be a system of equalization.

MR. KARN: In other words, on the present basis of assessments and taxation would that mean that the territory outside of Detroit, Wayne county, or that area, would be penalized by higher assessments and higher taxes than is now true, with a like adjustment downward for the people in that area and in Detroit?

MR. AUSTIN: Mr. President, Mr. Karn, what we have in mind is that we would retain the present system of equalizing assessments as it exists today. We have no change in mind.

MR. KARN: Mr. President, Mr. Austin, am I not correct in thinking that the taxes, assessment and taxes paid, are slightly less outstate than they are in the Detroit area?

MR. AUSTIN: Mr. President, Mr. Karn, I believe that is the case, that the assessments are a little higher in the more populous areas, but that is because generally property values are higher and the cost of government is higher in those areas.

PRESIDENT NISBET: The Chair recognizes Mr. Perras.

MR. PERRAS: A point of information, Mr. President, if I may, of Mr. Austin, through the Chair.

PRESIDENT NISBET: Mr. Austin? State it Mr. Perras.

MR. PERRAS: Mr. President, Mr. Austin, would that take out the section that we just added on the end to give tax relief to religious, charitable and other organizations?

MR. AUSTIN: Mr. President, Mr. Perras, it would do that, but at the time we wrote this amendment the other amendment had not been introduced, and I want to confess that I have not had an opportunity to discuss the matter with my cosponsors, so I'm not in a position to tell you whether they would be willing to include the amendment which was adopted here on the floor. That matter would have to be excluded from consideration at this time.

MR. PERRAS: Thank you.

PRESIDENT NISBET: The question is on the amendment. The yeas and nays have been demanded. The secretary will ring the bell, if he can. Those in favor of the Austin amendment will vote aye. Those opposed will vote no. Have you all voted? Those in favor of the amendment will vote aye. Those opposed will vote no.

MR. AUSTIN: Mr. President, just to make sure there is no misunderstanding about this amendment which was adopted on the floor, I think we would have to conclude that that amendment would not be affected by this. I feel that is a matter that ought to be decided separately.

PRESIDENT NISBET: The Chair is of the opinion, according to the amendment, it would be affected unless it were changed at a later date.

MR. AUSTIN: I will have to abide by the decision of the Chair, but that would be my preference.

PRESIDENT NISBET: Have you all voted?

MR. DOWNS: Point of information, of inquiry, Mr. President.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I want to see if I can state my inquiry correctly. We just adopted the DeVries amendment. This is not a substitute amendment. Are you ruling that the adoption of this amendment will negate the DeVries amendment?

PRESIDENT NISBET: That is what it says. It says this amendment would strike out the balance of the section and insert this new language of Mr. Austin.

MR. DOWNS: Could I amend this amendment?

PRESIDENT NISBET: Not at this time, Mr. Downs. The vote has been called for.

MR. DOWNS: The vote has been called?

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

MR. KING: Mr. President, would it be proper to request the vote of those here and not voting?

PRESIDENT NISBET: It can be requested. Has anybody in the room not voted? Would you please vote? The vote may be announced.

The roll was called and the delegates voted as follows:

Yeas — 23

Andrus, Miss	Downs	Lesinski
Austin	Elliott, Mrs. Daisy	McCauley
Baginski	Follo	Murphy
Balcer	Garvin	Norris
Bradley	Hatcher, Mrs.	Pollock
Buback	Heideman	Sablich
Cushman, Mrs.	Hodges	Young
Douglas	Jones	

Nays — 93

Allen	Hart, Miss	Radka
Anspach	Haskill	Rajkovich
Batchelor	Hatch	Richards, J. B.
Beaman	Higgs	Romney
Bentley	Howes	Rood
Blandford	Hubbs	Rush
Bonisteel	Hutchinson	Seyferth
Boothby	Iverson	Shackleton
Brake	Judd, Mrs.	Shaffer
Brown, G. E.	Karn	Shanahan
Cudlip	Kelsey	Sharpe
Danhof	King	Sleder
Dehnke	Kirk, S.	Snyder
Dell	Knirk, B.	Spitler
DeVries	Koeze, Mrs.	Stafseth
Donnelly, Miss	Kuhn	Stamm
Doty, Dean	Lawrence	Stevens
Doty, Donald	Leibbrand	Stopczynski
Elliott, A. G.	Leppien	Suzore
Erickson	Liberato	Thomson
Everett	Madar	Turner
Farnsworth	McAllister	Tweedie
Figy	McLogan	Upton
Finch	Mosier	Van Dusen
Gadola	Nisbet	Wanger
Goebel	Page	White
Gover	Perras	Wilkowski
Gust	Plank	Wood
Habermehl	Powell	Woolfenden
Hanna, W. F.	Prettie	Yeager
Hannah, J. A.	Pugsley	Youngblood

SECRETARY CHASE: On the amendment offered by Mr. Austin, the yeas are 23; the nays are 93.

PRESIDENT NISBET: The amendment is not adopted. There is one more amendment by Mr. Madar.

SECRETARY CHASE: Mr. Madar offers the following amendment:

1. Amend page 1, after line 16, [paragraph 2] by inserting a new paragraph to read as follows:

"The legislature shall have the power to exempt homesteads of retirees of 65 years of age or over from ad valorem taxes."

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Mr. President, I won't take up any more of the delegates' time than I possibly have to. All I want to say is that everything has been said that should be said in favor of this, and I think we ought to go along and help those retirees of 65 years of age and over.

PRESIDENT NISBET: Mr. Perras.

MR. PERRAS: Mr. President, I would like to ask a question of Mr. Madar, through the Chair, if I may.

PRESIDENT NISBET: If he cares to answer it. Mr. Madar?

MR. PERRAS: I would like to know this, Mr. President, Mr. Madar: what is the definition of a retiree?

MR. MADAR: That is someone—for instance, I have always termed it to be someone who has left a city's employ, the city of Detroit's employ, or a factory, or who has taken their retirement pay and do not have any other job.

MR. PERRAS: Would that mean in other words that a man over 65 that had a \$100,000 home and was wealthy would be exempt from taxes on his homestead?

MR. MADAR: He would under this, unless we put something in there to exempt those who have that much money. Frankly, to me, that is just a dream.

MR. PERRAS: I think that you should put in there that anyone that is on old-age assistance or receiving the social security benefits. Then you would have something. But this way—

MR. MADAR: I would be willing to add that Mr. President.

MR. PERRAS:—any millionaire over 65 would be exempt from taxes.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, the amendment starts out, "The legislature shall have power." It already has that power. The matter was considered carefully by committee. We ask, for the committee, that this amendment be rejected.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: Mr. President, we have gone to the legislature on at least 7 different occasions, and the legislature says we ought to have something in the constitution, and it ought to be constitutional. Now we ought to go ahead and do something about it then so that the legislature can act. This gives them the right to act.

PRESIDENT NISBET: The question is on the amendment of Mr. Madar. Those in favor will say aye. Those opposed, no. The amendment is not adopted.

MR. MADAR: I demand the yeas and nays, Mr. President.

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand seconded?

SECRETARY CHASE: Nineteen.

PRESIDENT NISBET: Not a sufficient number so the amendment is not adopted.

MR. MADAR: There was another vote over here that wasn't counted, Mr. President.

MR. FINCH: Mr. President.

PRESIDENT NISBET: Mr. Finch.

MR. FINCH: I would like to remind the delegates of the secretary's words yesterday: I believe it was that he said it costs more money to print the roll call votes in the journal.

PRESIDENT NISBET: It has not been demanded, Mr. Finch. The question now is on Committee Proposal 51, as amended. The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President, fellow delegates, I sincerely hope that we will not be influenced by the emotion that is involved in the amendment which was adopted here in considering this whole question before we vote on it.

I would like to remind the delegates that this is what we have done, or this is what we will be doing if we vote for the committee proposal: we will be providing, first of all, for uniform assessment of property without any power on the part of the legislature to classify it. We will be insisting that property be assessed at not more than 50 per cent of cash value, and we will also be writing into the constitution a prohibition of a graduated income tax. Unfortunately there has been linked to this proposal one that does have an emotional appeal, and I sincerely hope that you will consider very carefully what you

do when you take your final vote. I urge you to vote against the committee proposal, as amended.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, I move that the DeVries amendment be made a separate proposal. The purpose for this is that this item, which was put in as an amendment—and I, for one, voted for it—should not be commingled with the rest of this proposal. I feel very strongly that when proposals have more than one thought in them it is very proper for this convention to separate out those portions which largely are procedural and for convenience placed in a separate proposal.

I want to say again, I voted for the DeVries amendment. I hope we pull it out of the proposal, have it a separate one, standing by itself, and I am sure it will pass without having the confusion of ad valorem taxes and 50 per cent cash value and graduated income tax, and many other things that have no relationship whatsoever to the principle of that amendment. I urge that this motion be supported.

PRESIDENT NISBET: The question is on the motion of Mr. Downs.

MR. BRAKE: Mr. President.

PRESIDENT NISBET: Mr. Brake.

MR. BRAKE: Point of order. Have we not now a proposal that must be submitted in its entirety? We have amended it. That action has been taken. There should be one vote, should there not, on the whole proposal?

PRESIDENT NISBET: Mr. Downs has moved that this be taken out and voted on separately. The convention can decide that, and if it should approve it, then each proposal will need to be voted on separately.

MR. DOWNS: Mr. President, the motion was to take the DeVries amendment and give it a separate proposal number, perhaps 51A, so that it would stand on its own feet and be voted on without reference to these other items. And I demand the yeas and nays on this motion.

PRESIDENT NISBET: The question is on the motion of Mr. Downs. The yeas and nays have been demanded. Is the demand supported? Sufficient number up. According to Mr. Downs' motion, the DeVries amendment would become Committee Proposal 51A. Those who are in favor of Mr. Downs' motion will vote aye. Those opposed will vote nay. Will the delegates please clear the board. The question now is on the motion of Mr. Downs. Those in favor of that motion will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

MR. A. G. ELLIOTT: Mr. President.

PRESIDENT NISBET: Mr. Elliott.

MR. A. G. ELLIOTT: Point of information. Would the Chair kindly identify for me the background for the ruling which allows this to take place? It looks like to me, under Rule 58, inasmuch as the DeVries amendment was an amendment to that proposal, that we are very far afield here and doing something which is completely unorthodox and which is not in accordance with the rules, and I very strenuously object. And, Mr. President—

PRESIDENT NISBET: Mr. Elliott, the rule doesn't say you can't do this. The motion of Mr. Downs was to take the amendment out of Committee Proposal 51.

MR. A. G. ELLIOTT: Then, I would understand that if that is so, then the DeVries amendment will have to be voted on again, and it will have to receive 73 votes.

PRESIDENT NISBET: That is correct. Mr. Hanna.

MR. W. F. HANNA: Mr. President, I would like to ask the Chair a question. Did I understand the answer to Mr. Elliott's question that if this is separated then a proposal known as 51A, encompassing only the DeVries amendment, will have to be voted on separately, and to be adopted would require 73 votes?

PRESIDENT NISBET: Yes, sir.

MR. ROMNEY: I raise a preferential question, Mr. President.

PRESIDENT NISBET: Mr. Romney.

MR. ROMNEY: I make a preferential motion that we take this vote over as there are so many desiring to change their votes.

PRESIDENT NISBET: Yes, we're going to do that. The question will be voted on again. There are too many changes here. Clear the board, please. Mr. Brown.

MR. G. E. BROWN: Mr. President, point of parliamentary inquiry. Is it the ruling of the Chair that anytime you want to remove a section after there has been complete debate upon a committee proposal—any particular paragraph or section—a motion may be made and, by a majority vote, the section can be separated and voted on as a separate proposal with 73 votes required? Is that the ruling of the Chair?

PRESIDENT NISBET: That was the ruling.

MR. G. E. BROWN: I respectfully suggest that the Chair reconsider it during the evening.

MR. HUTCHINSON: Mr. President.

PRESIDENT NISBET: Mr. Hutchinson.

MR. HUTCHINSON: Mr. President, in all of my parliamentary experience, which I think has been considerable, I never saw a situation like this. Sometime or other, Mr. President, sometime in the course of making a decision, you have to take a final vote, and we are up to this point on this proposal. Now at all times, at all times during the perfecting of this proposal there was opportunity for amendment. You could fashion it any way you wanted to. Now, then, for the Chair to rule that having done all that, and having gotten the package together upon which a final vote is to be taken, for the Chair to now rule that you can divide the thing is, I think, entirely without precedent, and I would like to ask Mr. Chase to advise me whether in his legislative experience, when you got up to the point of third reading upon a bill was it possible then to divide the question. I say it is not. I think it is out of order to do it here. I think that if we accede to this point here, if we do it now, look at what we're going to get into in the future. I don't think it is in order and, for that reason, I sincerely hope this motion does not prevail, since the Chair seems to think it is in order. I don't think it is, but he thinks it is. I hope that we vote the motion down.

SECRETARY CHASE: The secretary can only say that Senator Hutchinson is correct in his interpretation of the legislative procedure. When a bill has been amended and it comes up for final passage on third reading you take the vote on the passage of the bill in its entirety.

PRESIDENT NISBET: The question is now on—

MR. HIGGS: Mr. President.

PRESIDENT NISBET: Mr. Higgs.

MR. HIGGS: I have a parliamentary inquiry. Of course, there is one difference between legislative practice and the practice here. What would be the status of things if we did not get 73 votes on this committee proposal? Where are we?

PRESIDENT NISBET: The proposal does not pass, Mr. Higgs.

MR. HIGGS: Are we then prohibited from going back, and are we going to end up with a complete void in the taxation section, or are we going to go back and adopt something?

PRESIDENT NISBET: That is up to the convention. Mr. Elliott.

MR. A. G. ELLIOTT: Is the Downs motion debatable?

PRESIDENT NISBET: On the Downs motion, the vote has been called for. It has been voted on once. It is not debatable now, and we are just waiting for the second vote. The question now is on the Downs motion. Mr. Brake.

MR. BRAKE: Mr. President, I have never yet appealed from the decision of the Chair, and I am not going to do it now, but may I suggest what we are getting into here? Every time from now until the end of this convention, when we have 2 things in a proposal, we are going to have a motion to separate them and vote on them separately. After all, the amendments have been made, all the action taken, and we are ready for a final vote. I am not going to appeal from the Chair, but I am wondering if the Chair cannot reconsider.

PRESIDENT NISBET: The Chair will have to take the advice of our parliamentarian, Mr. Chase. The Chair doesn't like to pass the buck. Mr. Downs.

MR. DOWNS: Mr. President, could I ask the secretary to read rule 58 to us?

SECRETARY CHASE: Rule 58 reads as follows:

On the passage of every proposal, section, article and any complete revision of or amendment to the constitution, the vote shall be taken by yeas and nays, and entered on the journal, and no proposal, section, article or any such amendment or complete revision shall be declared passed unless a majority of all the delegates elected to the convention shall have voted in favor of the passage of the same.

MR. DOWNS: Mr. President, I believe that the intent of this rule is that each section would need to be read separately and get 73 votes. I have not invoked this rule nor am I recommending its literal interpretation because of the time factor involved, but I do feel very strongly that when we have an amendment such as the DeVries one, which I did support and will support if it is separated, we should have the final opportunity to vote on that without having something like 50 per cent tax value, graduated income tax, or something else involved. I do not want the graduated income tax to rise or fall because of people's attitude on religious exemptions. Nor do I want people's attitude on religious exemptions to rise or fall because of some other delegates' attitude on a graduated income tax.

I feel beyond the mere technicalities of parliamentary procedure, as a deliberative body, we should take the responsibility to vote on basic issues as they stand or fall on their own feet. This is not a compromise between an income tax and tax exemptions; it is merely a mechanism whereby we can separate those things which by reason are separable, rather than having us vote on each section and article, yeas and nays, which would take an infinite amount of time.

PRESIDENT NISBET: The Chair recognizes Mr. Hoxie.

MR. HOXIE: Mr. President, point of information. We just went through a procedure here that raises a question in my mind, and that is the suggestion by a delegate to clear the board, so ordered by the Chair, without a motion or without an opportunity of the delegates to object. I am wondering, Mr. President, is that within the province or authority of the Chair to so order without it being in one form or another; either by motion or by the delegates having an opportunity to object to the clearing of the board after a vote has been taken?

PRESIDENT NISBET: There was so much confusion, Mr. Hoxie. The suggestion was made. There was no objection to it. It was ordered. It has been done. Whether it was right or not, the Chair is not in a position to know.

MR. HOXIE: Mr. President, I would just like the answer, if this matter would come before the convention, whether that procedure is properly in order?

PRESIDENT NISBET: The Chair is of the opinion if it came up again, we would ask for a motion on it. The Chair recognizes Mr. Van Dusen.

MR. VANDUSEN: Mr. President, I do not wish to unduly protract this, because we have a great deal of finance and taxation remaining to be completed before we can leave this hall this afternoon. However, I would make the point of order that Mr. Downs' motion is not in order unless the rules are first suspended, because the purport of his motion is to create a separate proposal which would not have had any consideration by a committee, would not have had the consideration of the committee of the whole, would not have had the consideration by the committee on style and drafting, all of which are required under the rules. And without suspending the rules, therefore, Mr. Downs' motion would not be in order.

PRESIDENT NISBET: The Chair is informed, Mr. Van Dusen, that that is correct and will sustain your point of order. Mr. Downs, your motion will need to be to suspend the rules.

MR. W. F. HANNA: Mr. President.

MR. DOWNS: Point of order, Mr. President.

PRESIDENT NISBET: Mr. Downs has the floor, Mr. Hanna.

MR. DOWNS: I admit I am a little confused at this point. I don't know if we debate points of order, and I do not wish to reflect on the chair's ruling since I have won once—I thought the Chair made a very fine ruling. I mean, I think

that here again we don't want to get so wound up in technicalities that we omit the real objectives. I would agree with Delegate VanDusen if a delegate walked in here with an entirely new idea and said he wanted a separate proposal. Apparently a person can take an idea that is different and put it on as an amendment to a proposal and it is okay.

Now it just happened that this proposal we have before us was discussed thoroughly in committee of the whole, on the floor here, by style and drafting, and we all know that. Let's not create legal myths. All I am trying to do is see that, as delegates, we have the right to vote on each aspect separately. I have not invoked the technicality of the rule I have just read, which would require each article, section and I believe idea to be read separately and take 73 votes for any one thing to pass. That's unrealistic. But this attitude of having a motion to separate that which stands by itself and is logically separable seems to me a reasonable answer, a reasonable attitude and I hope the Chair would reconsider its reconsideration and see that under a rule of reason, or perhaps even a 5 minute recess, this matter could be resolved.

PRESIDENT NISBET: Mr. Hanna.

MR. W. F. HANNA: Mr. President, I believe a motion to reconsider the vote by which the DeVries amendment was adopted would be in order, am I correct, as a preferential motion?

PRESIDENT NISBET: That is correct.

MR. W. F. HANNA: Mr. President, I move that the vote by which the DeVries amendment was adopted be reconsidered by this body, and I do that for this reason: I hope then that Mr. DeVries and his supporters will withdraw this amendment at this point and place it with the exemptions where it belongs.

PRESIDENT NISBET: Mr. Snyder.

MR. SNYDER: Point of order, Mr. President.

PRESIDENT NISBET: State it.

MR. SNYDER: This morning the Chair sustained the committee on finance and taxation when it reported out to the convention a new substitute proposal that had been reported to the committee on style and drafting. It was returned to the convention in an entirely different form without any opportunity to debate in committee on style and drafting and certainly the point that Mr. Van Dusen raises now should have been carried out then. There were many of us in the audience who recognized this problem. We did not bring it to a test because we felt that we had the interest of the convention paramount—not pari-mutuel but paramount—and as a result we overlooked this technicality, and we are asking that due consideration be given us.

PRESIDENT NISBET: The question now is on Mr. Hanna's motion—that motion, we know, is in order—that the vote on the DeVries amendment be reconsidered. Those in favor of the motion by Mr. Hanna—Mr. Wanger.

MR. WANGER: Mr. President, I urge a yes vote upon this for the following reason: it has been implied by Mr. Lawrence—I don't believe that it sufficiently sank into the members of the delegation but, as pointed out in part by Delegate Lawrence, the specific language of the DeVries amendment can reasonably be interpreted to open the door—

MR. STERRETT: Point of order, Mr. President. I don't believe this is debatable.

MR. WANGER: A motion to reconsider is, I believe, debatable.

PRESIDENT NISBET: The point of order is overruled. You may continue, Mr. Wanger.

MR. WANGER: —the specific language of the DeVries amendment can be reasonably interpreted to open the door to gross abuses of the tax exemption policy of the state for unjustifiable private gain. The words, "property held," appear to apply to property which the nonprofit corporation, association or legal entity has leased, rented or otherwise holds by an estate for years. This means that the owner of the property, who may be an ordinary private individual, or a business for profit, will be receiving his usual rental or lease payments, but will not have to pay any property tax at all. I am sure this was not the intent of the sponsors, but it is a reasonable

interpretation, as pointed out. It is something which must be cleared up, and therefore I urge you to vote yes.

PRESIDENT NISBET: The question is on the motion of Mr. Hanna that reconsideration be given. Those in favor—Mr. Brake.

MR. BRAKE: Mr. President, I hope that we do not go along with this motion. We have got to get some work done in this convention sometime, and if we're going to back up and start over and then back up and start over we are never going to get anywhere.

PRESIDENT NISBET: Those in favor of the motion will say aye. Opposed, no.

The motion to reconsider does not prevail.

DELEGATES: Division.

PRESIDENT NISBET: Division is asked for. Is the demand supported? Sufficient number up. Those in favor of the Hanna amendment will vote aye. Those opposed will vote nay. The question is on the motion to reconsider the vote by which the DeVries amendment was adopted. Those in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and tally the vote.

SECRETARY CHASE: On the motion to reconsider, the yeas are 53; the nays are 73.

PRESIDENT NISBET: The motion to reconsider does not prevail. Mr. Downs, in order to get this thing finally wound up, it will be necessary for you to move to suspend the rules so that the DeVries amendment may be a separate committee proposal number 51A.

MR. DOWNS: Mr. President, thank you for the advice. I so move.

PRESIDENT NISBET: The question is on the motion of Mr. Downs to suspend the rules, and that the DeVries amendment be a separate proposal, known as Committee Proposal 51A.

MR. DOWNS: And I ask for the yeas and nays.

PRESIDENT NISBET: The yeas and nays have been demanded. Is that demand supported? Sufficient number up. Will you please clear the machine? Those who are in favor—

MR. KELSEY: Mr. President, can I speak on this motion? I will be very brief.

PRESIDENT NISBET: Okay, make it brief.

MR. KELSEY: I want to remind the delegates, when we changed this rule, you remember that we were promised very faithfully—I think the words "blooming idea" were used, and we had assurance from Mr. Van Dusen and Mr. Hutchinson that nothing would be locked out. Now here is a chance to back up those words.

PRESIDENT NISBET: Those in favor of the motion of Mr. Downs 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—52

Austin	Heideman	Pollock
Baginski	Higgs	Prettie
Balcer	Hodges	Sablich
Binkowski	Hood	Sharpe
Bonisteel	Hoxie	Sleder
Boothby	Jones	Snyder
Bradley	Kelsey	Spitler
Buback	Krolkowski	Stopczynski
Cushman, Mrs.	Kuhn	Suzore
Dehnke	Lawrence	Tweedie
Donnelly, Miss	Lesinski	Wanger
Downs	Liberato	Wilkowski
Elliott, Mrs. Daisy	Madar	Wood
Follo	Mahinske	Woolfenden
Garvin	Murphy	Yeager
Habermehl	Norris	Young
Hart, Miss	Page	Youngblood
Hatcher, Mrs.		

Nays—73

Allen	Gadola	Mosler
Andrus, Miss	Goebel	Nisbet
Anspach	Gover	Perras
Barthwell	Gust	Plank

Batchelor	Hannah, J. A.	Powell
Beaman	Haskill	Pugsley
Bentley	Hatch	Radka
Blandford	Howes	Rajkovich
Brake	Hubbs	Richards, J. B.
Brown, G. E.	Hutchinson	Romney
Conklin, Mrs.	Iverson	Rood
Cudlip	Judd, Mrs.	Rush
Danhof	Karn	Seyferth
Dell	King	Shackleton
DeVries	Kirk, S.	Shaffer
Doty, Dean	Knirk, B.	Stafseth
Doty, Donald	Koeze, Mrs.	Staiger
Douglas	Leibrand	Stamm
Durst	Leppien	Sterrett
Elliott, A. G.	McAllister	Stevens
Erickson	McCauley	Thomson
Everett	McGowan, Miss	Turner
Farnsworth	McLogan	Upton
Figy	Millard	Van Dusen
Finch		

SECRETARY CHASE: On the motion of Mr. Downs to suspend the rules and make the DeVries amendment a separate proposal to be known as Committee Proposal 51A, the yeas are 52; the nays are 73.

PRESIDENT NISBET: The motion does not prevail. The question now is on Committee Proposal 51, as amended. Will the boards be cleared, please.

MR. MADAR: Mr. President.

PRESIDENT NISBET: Mr. Madar.

MR. MADAR: I move at this time that we stick to the rules and we vote as we should vote, paragraph by paragraph, section by section. That is the rule.

PRESIDENT NISBET: That is not in order, Mr. Madar.

MR. BRAKE: Mr. President, I call the attention of the Chair to the fact that there is only one section to this proposal.

PRESIDENT NISBET: That is correct. Miss Hart.

MISS HART: Mr. President, I shall abstain from voting and explain my reasons.

PRESIDENT NISBET: You may do that, Miss Hart. Mr. Mahinske.

MR. MAHINSKE: Mr. President, I intend to abstain from voting.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: I intend to abstain, and have a chance to explain my reasons.

PRESIDENT NISBET: Mr. Downs will explain his vote. Mr. Snyder.

MR. SNYDER: I wish to abstain and explain my vote.

PRESIDENT NISBET: Mr. Snyder will abstain and explain his vote.

PRESIDENT NISBET: Mr. Lesinski.

MR. LESINSKI: Mr. President, I wish to abstain. I don't believe I have to give a reason for it.

PRESIDENT NISBET: Okay. Mr. Youngblood.

MR. YOUNGBLOOD: I wish to abstain.

PRESIDENT NISBET: Mr. Youngblood wishes to abstain. Mr. Hood wishes to abstain.

MR. HOOD: Abstain, yes, and explain.

PRESIDENT NISBET: Mr. Buback abstains. Mr. Madar abstains. Mrs. Hatcher abstains. Mr. Murphy abstains. The question is on the—

Pardon me, Mr. Kelsey abstains. Miss Donnelly abstains. Mr. Garvin abstains. Mrs. Daisy Elliott abstains. Mr. Barthwell abstains. Mr. Perras.

MR. PERRAS: I am going to do something different. I am going to vote and gloat, Mr. President.

PRESIDENT NISBET: Mr. Boothby abstains. Mr. Habermehl abstains. Mr. Dehnke, Mr. Bradley, Mr. Baginski and Mr. Heideman abstaining.

The question is on Committee Proposal 51, as amended. Those who are in favor will vote aye. Those opposed will vote nay. Have you all voted? If so, the secretary will lock the machine and record the vote.

The roll was called and the delegates voted as follows:

Yeas—88

Allen	Haskill	Radka
Andrus, Miss	Hatch	Rajkovich
Anspach	Higgs	Richards, J. B.
Balcer	Howes	Romney
Batchelor	Hoxie	Rood
Beaman	Hubbs	Rush
Bentley	Hutchinson	Seyferth
Binkowski	Iverson	Shackleton
Blandford	Judd, Mrs.	Shaffer
Brake	Karn	Shanahan
Brown, G. E.	King	Sharpe
Conklin, Mrs.	Kirk, S.	Sleder
Cudlip	Knirk, B.	Spitler
Danhof	Koeze, Mrs.	Stafseth
Dell	Krolikowski	Staiger
DeVries	Kuhn	Stamm
Doty, Dean	Leibrand	Sterrett
Durst	Leppien	Stevens
Elliott, A. G.	McCauley	Stopczynski
Erickson	McGowan, Miss	Suzore
Everett	McLogan	Turner
Farnsworth	Millard	Tweedie
Figy	Mosier	Upton
Finch	Nisbet	Van Dusen
Gadola	Page	Wanger
Goebel	Perras	White
Gover	Plank	Wilkowski
Gust	Powell	Wood
Hanna, W. F.	Prettie	Woolfenden
Hannah, J. A.		

Nays—15

Austin	Jones	Pollock
Cushman, Mrs.	Lawrence	Sablich
Doty, Donald	Liberato	Thomson
Douglas	McAllister	Yeager
Hodges	Norris	Young

SECRETARY CHASE: On the passage of Committee Proposal 51 as amended, the yeas are 88; the nays are 15.

PRESIDENT NISBET: **Committee Proposal 51**, as amended, is passed.

Following is statement explaining abstention from voting submitted by Miss Hart:

I favored Mr. Austin's amendment to Committee Proposal 51. I opposed the committee report. I was, however, a cosponsor of the DeVries amendment exempting religious, educational and charitable institutions from real and personal property taxes. Since Mr. Austin's amendment did not incorporate the DeVries amendment I voted against his amendment and abstained from voting on the committee report.

Following is statement explaining abstention from voting submitted by Miss Hart, Mrs. Daisy Elliott, Mrs. Hatcher, Messrs. Kelsey, Snyder, Hood, Youngblood, Garvin, Bradley, Lesinski, Murphy, Madar, Downs and Buback:

We abstained from voting on Committee Proposal 51.

This proposal limits local communities in property assessments and would result in increased taxes for home owners because of reduced taxes on other properties. This provision also makes it impossible for a city or other unit of government to adopt a "piggy back" income tax even though the citizens of that city or unit of government would overwhelmingly support such a proposal. These 2 items definitely do not belong in the constitution, and we could not support them.

In order to sweeten this provision, an amendment was added to provide constitutional tax exemption similar to the present statutory tax exemption for religious, charitable and educational institutions as defined by law. We supported this amendment but felt that it should be put in a separate proposal so that we could vote for that constitutional exemption without being compelled simultaneously

to support tax provisions we could not in good conscience sponsor.

We did vigorously support convention action to separate the exemption item from the tax provisions, but unfortunately were defeated in our attempt.

PRESIDENT NISBET (continuing): It is referred to the committee on style and drafting.

Following is Committee Proposal 51 as amended and referred to the committee on style and drafting:

Sec. a. 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 per cent; 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. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

Property held by a nonprofit 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.

PRESIDENT NISBET (continuing): The Chair apologizes for all the difficulty we got in and taking up the time. The secretary will read the next proposal.

SECRETARY CHASE: If the delegates would care to check their calendar, you can cross off items 1, 2, 5, 6, 10 and 15, which have been passed.

Item 3 on the calendar, **Committee Proposal 36**, A proposal with reference to the use to be made of the primary school interest fund, covering the subject matter now found in article X, section 1 of the 1908 constitution.

Following is Committee Proposal 36 as reported by the committee on style and drafting and read by the secretary. (For full text as referred to said committee, see above, page 818.):

Sec. a. The revenue derived from all subjects of taxation now contributing to the primary school interest fund shall be [used] exclusively [for and included in the annual legislative appropriation] **APPROPRIATED ANNUALLY** for [state aid to] public education.

PRESIDENT NISBET: The Chair recognizes Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen, this is the primary school interest fund proposition that I mentioned in connection with the sales tax. There is a committee amendment to strike this section from the constitution.

SECRETARY CHASE: Mr. Brake, on behalf of the committee on finance and taxation, offers the following amendment:

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

MR. BRAKE: Mr. President and ladies and gentlemen, there is something there somebody is sure to raise, so I will try to explain it in the first place. There is a small part of the primary school interest fund that came from the sale of land given the state, the sixteenth section of each township, and something will still have to be done, I assume, because we have probably a contractual or at least a trust arrangement there, but it is a small amount. The legislature will have the choice of doing 1 of 2 things, either to continue to pay a small amount of interest each year, or turn the whole fund over to the schools; and that would undoubtedly comply with the obligation of the state to the federal government, following up their orders. But it is a matter that the legislature can

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

take care of, and need not be carried further in the constitution if you agree that we are to abolish the primary school interest fund.

PRESIDENT NISBET: The question is on the amendment. The secretary will read the amendment again.

SECRETARY CHASE: The committee amendment is to strike out the entire proposal.

PRESIDENT NISBET: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, this is a difficult one because we have already eliminated all of the other earmarkings for schools. I hate to see this one go, and yet it is hard to see why we should retain this one, but in order to be consistent I would certainly recommend that we retain the primary school interest fund tax.

PRESIDENT NISBET: Mr. Downs.

MR. DOWNS: Mr. President, I wish to speak on the subject matter, and I will raise no procedural questions for the next 2 minutes, I promise. Again, I think we should point out that the concept of this fund for education—if am right historically, and I did not have time to review my notes—was that Michigan before we were finally a state subdivided into counties, and so on, had the United States congress, in its wisdom, set aside what Delegate Brake has said was the sixteenth section of each township to be used for the purpose of education. Now, if we had followed that precedent, there would be a tremendous amount of money for our educational funds; perhaps so much so that none of us would be even raising the possibility of a need for federal aid to education. Unfortunately, when there was a panic, I believe over a 100 years ago, we know the action was taken to liquidate some of the funds that had been normally reserved for schools and education.

I am just afraid that this is another step backwards, and I just want to remind us that when our settlers of the state of Michigan, even when we were just a territory, were living in log cabins, were developing the state, that there was this real concern for constitutional protection and floors on education. I favor the continuation of those historical minimum floors, and hope that we build from that. I agree with Delegate Austin, and hope that this amendment is voted down.

PRESIDENT NISBET: The question is on the amendment offered by Mr. Brake for the committee. Mr. Heideman.

MR. HEIDEMAN: I wish to oppose this amendment to delete. This is the first day that I have been ashamed to be a member of this constitutional convention.

PRESIDENT NISBET: The question is on the amendment. Those in favor will vote aye. Those opposed, no. The Chair is in doubt. The question is on the amendment offered by Mr. Brake, to strike out the entire proposal. Those in favor will vote aye.

MR. DOWNS: May I ask for the yeas and nays?

PRESIDENT NISBET: The yeas and nays have been demanded. Is the demand supported? Sufficient number up. Those in favor of the amendment will vote aye. Those opposed will vote nay. The vote is on the amendment offered by Mr. Brake to strike out the entire Committee Proposal 36. Those in favor vote aye. Those opposed, 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—71

Allen	Habermehl	Rajkovich
Batchelor	Hanna, W. F.	Richards, J. B.
Beaman	Hatch	Romney
Bentley	Higgs	Rood
Boothby	Howes	Rush
Brake	Hubbs	Seyferth
Brown, G. E.	Hutchinson	Shanahan
Conklin, Mrs.	Iverson	Sharpe
Danhof	Karn	Sleder
Dehnke	King	Spitler
Dell	Kirk, S.	Staflseth
DeVries	Knirk, B.	Staiger
Doty, Dean	Koeze, Mrs.	Stamm
Doty, Donald	Leibrand	Thomson
Durst	Leppien	Turner

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
1.	Political Power 15- 1
2.	Equal Protection under the Law 26a
3.	Right of Assembly and Petition 15- 2
4.	Freedom of Worship 15- 3
5.	Liberty of Speech and Press 15- 4
6.	Right to bear arms 15- 5
7.	Civil Power Supreme 15- 6
8.	Quartering of Soldiers 15- 7
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Article I**Declaration of Rights**

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

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

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

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

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

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

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

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

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

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

ever be tolerated in this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE II ELECTIONS

Sec.	Com. Proposal
1. Qualifications	58a
2. Legislature may exclude certain persons from voting	58b
3. Presidential electors, residence	58c
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Article II Elections

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

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

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

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

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2. Division of Powers	21a
3. Great Seal	18a
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5. Inter-Governmental Agreements ...	128a
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7. Laws remain in effect	44a
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Article III General Government

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

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

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

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

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

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

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

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

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

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

ARTICLE IV LEGISLATIVE BRANCH

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14. Senate and House, quorums	34a
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6	24.	Laws, object and title	
7		First sentence	121a
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10	26.	Bills, requirements for passage	
11		First sentence	105a
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20		governor	70a
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24	37.	Administrative rules, suspension	123a
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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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Article V Executive Branch

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

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

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

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

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

Terms of office of any board or commission

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

YEARS NEXT PRECEDING HIS ELECTION.

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

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

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

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

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

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

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

Sec. 26. The legislature shall provide that the

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

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

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

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

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

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

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

ARTICLE VI JUDICIAL BRANCH

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Article VI Judicial Branch

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

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

days prior to the expiration of his term.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 28. All final decisions, findings, rulings

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

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

ARTICLE VII LOCAL GOVERNMENT

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Article VII

Local Government

Sec. 1. Each organized county shall be a body corporate with powers and immunities [prescribed] PROVIDED by law.

Sec. 2. Any county may frame, adopt, amend or repeal a county charter in a manner and with powers and limitations to be provided by general law, which shall among other things provide for the election of a charter commission. The law may permit the organization of county government in form different from that set forth in this constitution and shall limit the rate of ad valorem property taxation for county purposes, and restrict THE [their] powers of CHARTER COUNTIES TO borrow[ing] money and contract[ing] debts. Each charter county is hereby granted power to levy other taxes for county purposes subject to limitations and prohibitions set forth in this constitution or law. Subject to law, a county charter may authorize the county through its regularly constituted authority to [enact] ADOPT resolutions and ordinances relating to its concerns.

The board of supervisors by a majority vote of its members may, and upon petition of [5] FIVE percent of the electors shall, place upon the ballot the question of electing a commission to frame a charter.

No county charter shall be adopted, amended or repealed until approved by a majority of electors voting on the question.

Sec. 3. No organized county shall be reduced by the organization of new counties to less than 16 townships as surveyed by the United States, unless APPROVED in [pursuance of] THE MANNER PRESCRIBED BY law BY a majority of electors voting [on] THEREON [the question] in each county to be affected. [thereby shall so decide.]

Sec. 4. There shall be elected for [4] FOUR-year terms in each organized county a sheriff, a county clerk, a county treasurer, a register of deeds and a prosecuting attorney, whose duties and powers shall be [prescribed] PROVIDED by law. The board of supervisors in any county may COMBINE [unite] the offices of county clerk and register of deeds in one office or separate the same

at pleasure.

Sec. 5. The sheriff, county clerk, county treasurer and register of deeds shall hold their principal offices at the county seat.

Sec. 6. The sheriff may be required by law to renew his security [from time to time] PERIODICALLY and in default of giving such security, his office shall be [deemed] vacant. The county shall never be responsible for his acts, except that the board of supervisors may protect him against claims by prisoners for unintentional injuries received while in his custody. He shall not hold any other office except in [connection with] civil defense.

Sec. 7. A board of supervisors shall be established in each ORGANIZED county consisting of one member from each organized township and such representation from cities as [shall be prescribed] PROVIDED by law.

Sec. 8. [The] Boards of supervisors shall have LEGISLATIVE, ADMINISTRATIVE [such] AND SUCH OTHER powers and duties as provided by law [not inconsistent with this constitution].

Sec. 9. [The] Boards of supervisors shall have exclusive power to fix the compensation of [all] county [officials] OFFICERS not otherwise provided [for] by law.

Sec. 10. [No] A county seat once established shall NOT be removed until the place to which it is proposed to be [re]moved shall be designated by [2/3] TWO-THIRDS of the MEMBERS OF THE board of supervisors [of the county,] and a majority of the electors voting thereon shall have [voted in favor of] APPROVED the proposed location in [a] THE manner prescribed by law.

Sec. 11. No county shall incur any indebtedness which shall increase its total debt beyond 10 percent of its assessed valuation.

Sec. 12. [No] A navigable stream [of this state] shall NOT be bridged or dammed without permission granted by the board of supervisors of the county [under the provisions of] AS PROVIDED BY law, which permission shall be subject to such reasonable compensation and other conditions as may seem best suited to safeguard the rights and interests of the county and POLITICAL SUBDIVISIONS [the municipalities] therein.

Sec. 13. Two or more CONTIGUOUS counties may combine into a single county [provided] IF APPROVED IN EACH AFFECTED COUNTY BY a majority of the [voters] ELECTORS voting on the question. [of each county, voting separately, approve such combination and the counties are contiguous.]

Sec. 14. The board of supervisors of each organized county may organize and consolidate townships under restrictions and limitations [prescribed] PROVIDED by law.

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

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. Wherever possible, such additional forms of government or authorities shall be designed to perform multi-purpose functions rather than a single function.

Sec. 28. The legislature by general law shall authorize two or more counties, cities, villages, townships or districts, or any combination thereof among other things to: enter into contractual undertakings or agreements with one another or with the state or with any combination thereof for the joint administration of any of the functions or powers which each would have the power to perform separately; share the costs and responsibilities of functions and services with one another or with the state or with any combination thereof which each would have the power to perform separately; transfer functions or responsibilities to one another or any combination thereof upon the consent of each unit involved; cooperate with one another and with state government [and with intergovernmental agencies]; lend their credit to one another or any combination thereof as PROVIDED [prescribed] by law in connection with any authorized publicly owned undertaking.

Any other provision of this constitution notwithstanding, an officer or employee of the state or any [of] such unit[s] of government or subdivision or agency thereof, except members of the legislature, may serve on or with any governmental body established for the [above] purposes SET FORTH IN THIS SECTION and shall not be required to relinquish his office or employment by reason of such service.

Sec. 29. No person, partnership, association or corporation, public or private, operating a public utility shall have the right to the use of the highways, streets, alleys or other public places of any county, city, village or township for wires, poles, pipes, tracks, conduits or other utility facilities, without the consent of the duly constituted authority of the county, city, village or township; or to transact local business therein without first obtaining a franchise from the city, village or township. Except as otherwise [authorized] PROVIDED in this constitution the right of all counties, cities, villages and townships to the reasonable control of their highways, streets, alleys and public places is hereby reserved to such local units of government.

Sec. 30. No franchise or license shall be granted by any city, village or township for a [longer] period LONGER than 30 years.

Sec. 31. The legislature shall not vacate or alter any road, street, alley, or public place under the jurisdiction of any county, township, city or village.

Sec. 32. Any county, township, city, village, authority or school district empowered by the legislature or by this constitution to prepare budgets of estimated expenditures and revenues shall adopt [said] SUCH budgets only after a public hearing in a manner prescribed by law.

Sec. 33. The provisions of this constitution and law concerning cities, villages, counties and townships shall be liberally construed in their favor. Powers granted to counties and townships by this constitution and by law shall include those fairly implied and not [inconsistent with nor] prohibited by this constitution.

ARTICLE VIII EDUCATION

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2. Legislative duty to public education ..	30a
3. State Board of Education—Superintendent of Public Instruction	47a
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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

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24. Pensions, State Obligations	40a

Article IX

Finance and Taxation

Sec. 1. The legislature shall impose taxes sufficient with other resources to pay the expenses of state government.

Sec. 2. The power of taxation shall never be surrendered, suspended[,] or contracted away.

Sec. 3. The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 percent; and for a system of equalization of assessments. The legislature may provide for alternative means of taxation of designated real and tangible personal property in lieu of general ad valorem taxation. Every tax other than the general ad valorem property tax shall be uniform upon the class or classes on which it operates.

Sec. 4. Property held by a non-profit corporation, association, or legal entity and used and occupied exclusively for religious, educational, charitable or burial grounds purposes, as defined by law, shall be exempt from real and personal property taxes.

Sec. 5. The legislature shall provide for the assessment by the state of the property of those PUBLIC SERVICE businesses [whose property is now] assessed by the state AT THE DATE THIS CONSTITUTION BECOMES EFFECTIVE, and of other property as designated by the legislature, and for the [levy] IMPOSITION and collection of taxes thereon. Property assessed by the state shall be assessed at the same proportion of its true cash value as the legislature shall specify for property subject to general ad valorem taxation. The rate of taxation on such property shall be the average rate levied upon other property in this state under the general ad valorem tax law, or, if the legislature provides, the rate of tax applicable to the property of each business enterprise assessed by the state shall be the average rate of ad valorem taxation levied upon other property in all counties in which any of such property is situated.

Sec. 6. Except as otherwise provided in this constitution, the total amount of general ad valorem taxes [levied against] IMPOSED UPON REAL AND TANGIBLE PERSONAL property for all purposes in any one year shall not exceed 15 mills on each dollar of the assessed valuation of [said] property as finally equalized. Under procedures provided by law, which shall guarantee the right of initiative, separate tax limitations for any county and FOR the townships and FOR school districts therein, the aggregate of which shall not exceed 18 mills on each dollar of such valuation, may be adopted and thereafter altered by the vote of a majority of the qualified electors of such county voting thereon, in lieu of the limitation hereinbefore established. The limitations established [herein] BY THIS CONSTITUTION or by county vote may be increased to an aggregate of not to exceed 50 mills, OR MORE IF PROVIDED BY LAW, on each dollar of [such] valuation, [except as otherwise provided by law,] for a period of not to exceed 20 years at any one time, [by the vote of] IF APPROVED BY a majority of the [qualified] electors, QUALIFIED UNDER [as defined in] Article II, [hereof] SECTION 6 OF THIS CONSTITUTION[,] VOTING ON THE QUESTION [of any such taxing authority voting thereon].

The foregoing limitations shall not apply to [(a)] taxes [levied] IMPOSED for the payment of principal and interest on bonds or other evidences of indebtedness[,] or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be [levied] IMPOSED without limitation as to rate or amount[,] or [(b)] TO taxes [levied] IMPOSED for any other purpose by any city, village, charter county, charter township or other charter authority the tax limitations of which are provided by charter or by general law.

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

In any school district which extends into [2] TWO or more counties, [there may be levied and collected for school purposes throughout the district] property taxes at the highest rate available in the county which contains the greatest part of the area of the district MAY BE IMPOSED AND COLLECTED FOR SCHOOL PURPOSES THROUGHOUT THE DISTRICT.

Sec. 7. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

Sec. 8. [At no time shall] The legislature SHALL NOT [levy] IMPOSE a sales tax on retailers at a rate of more than [4] FOUR percent of their gross taxable sales of tangible personal property.

Sec. 9. All specific taxes, except general sales and use taxes and regulatory fees, imposed DIRECTLY OR INDIRECTLY on fuels sold or used to propel motor vehicles upon highways and on registered motor vehicles shall, after the payment of [the] necessary collection expenses, be used exclusively for highway purposes as defined by law.

Sec. 10. One-eighth of all taxes [upon the privilege of selling] IMPOSED ON RETAILERS ON TAXABLE SALES AT RETAIL OF tangible personal property [at retail] shall be used exclusively for assistance to cities, villages and townships, on a population basis as provided by law. IN DETERMINING POPULATION the legislature may exclude [from population] any portion of the total number of persons who are wards, patients or convicts [of] IN any tax supported institution.

Sec. 11. There shall be established a state school aid fund. The legislature may [from time to time] dedicate [certain] tax revenues to this fund which shall be used exclusively for the support of public education and [for] school employees' retirement systems, [in a manner] AS provided by law.

Sec. 12. No evidence of state indebtedness shall be issued except for debts authorized pursuant to this constitution.

Sec. 13. Public bodies corporate shall have power to borrow money and to issue their securities evidencing debt, subject to this constitution and law.

Sec. 14. To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 percent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

Sec. 15. The state may borrow money for specific purposes in amounts as may be provided by acts of the legislature adopted by a vote of [2/3] TWO-THIRDS of the members elected to and serving in each house, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

Sec. 16. The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

If the minimum amount which [it] would otherwise be necessary for a school district to levy in any year to pay principal and interest on its qualified bonds, including any necessary allowances for estimated tax delinquencies, exceeds 13 mills on each dollar of its assessed valuation as [last] FINALLY equalized [by the state], or such lower millage as the legislature may prescribe, then the school district may elect to borrow all or any part of the excess from the state. In that event the state shall LEND [loan] the excess amount to the school district for the payment of principal and interest. If for any reason any school district will be or is unable to pay the principal and interest on its qualified bonds when due, then the school district shall borrow and the state shall LEND [loan] to it an amount sufficient to enable the school district to make the payment.

The term "qualified bonds" means general obligation bonds of school districts issued for capital expenditures, including refunding bonds, issued prior to May 4, 1955, or issued thereafter and qualified as provided by law pursuant to Section 27 or Section 28, Article X, of the Constitution of 1908 or pursuant to this section.

After a school district has received loans from the state, each year thereafter it shall levy for debt service, exclusive of levies for nonqualified bonds, not less than 13 mills or such lower millage as the legislature may prescribe, until the amount loaned has been repaid, and any tax collections therefrom in any year over and above the minimum requirements for principal and interest on qualified bonds shall be used toward the repayment of state loans. In any year when such [a] levy would produce an amount in excess of the requirements and the amount due to the state, the levy may be reduced by the amount of the excess.

Subject to the foregoing provisions, the legislature shall have the power to prescribe and to limit the procedure, terms and conditions for the qualification of bonds, for obtaining and making state loans, and for the repayment of loans.

The power to tax for the payment of principal

and interest on bonds hereafter issued which are the general obligations of any school district, including refunding bonds, and for repayment of any state loans made to school districts, shall be without limitation as to rate or amount.

All rights acquired under Sections 27 and 28, Article X of the Constitution of 1908, by holders of bonds heretofore issued, and all obligations assumed by the state or any school district under these sections, shall remain unimpaired.

Sec. 17. No money shall be paid out of the state treasury except in pursuance of appropriations made by law.

Sec. 18. The credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.

This section shall not be construed to prohibit the investment of public funds until needed for current requirements [or the investment of public employee retirement system funds], as [may be] provided by law.

Sec. 19. The state shall not subscribe to, nor be interested in the stock of any company, association or corporation[,] . [except that] Funds accumulated to provide retirement or pension benefits for public officials and employees may be invested as provided by law[;] . [and except that] Endowment funds created for charitable or educational purposes may be invested as provided by law governing the investment of funds held in trust by trustees.

Sec. 20. No state money shall be deposited in banks other than those organized under the national or state banking laws. No state money shall be deposited in any bank in excess of 50 percent of the capital and surplus of such bank. Any bank receiving deposits of state money shall show the amount of state money so deposited as a separate item in all published statements.

Sec. 21. The legislature shall provide by law for the annual accounting for all public moneys, state and local, and may [also] provide by law for interim accounting.

The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.

Sec. 22. PROCEDURES FOR THE EXAMINATION AND ADJUSTMENT OF CLAIMS AGAINST THE STATE SHALL BE PRESCRIBED BY LAW.

Sec. 23. All financial records, accountings, audit reports and other reports of public moneys shall be public records and open to inspection. A statement of all revenues and expenditures of public moneys shall be published and distributed annually, as [prescribed] PROVIDED by law.

Sec. 24. The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby.

Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be [usable] USED for financing unfunded accrued liabilities.

ARTICLE X PROPERTY

Sec.	Com. Proposal
1. Married Women	63a
2. Eminent Domain	67a
3. Homestead Exemption	12a
4. Escheats	74a
5. State Lands	129a
6. Alien Rights	43a

Article X Property

Sec. 1. The real and personal estate of every woman, acquired before marriage, and all property to which she may afterwards become entitled by gift, grant, inheritance or devise, shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be devised or bequeathed by her as if she were unmarried.

Sec. 2. Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law.

Sec. 3. A homestead in the amount of not less than \$3,500[.00] and personal property of every resident of this state in the amount of not less than \$750[.00], as defined by law, shall be exempt from forced sale on execution or other process of any court. Such exemptions shall not extend to any lien thereon excluded FROM EXEMPTION by law.

Sec. 4. Procedures [for the examination and adjustment of claims against the state and procedures] relating to escheats and to the custody and disposition of escheated property shall be prescribed by law.

Sec. 5. The legislature shall have general supervisory jurisdiction over all state owned lands useful for forest preserves, game areas and recreational purposes; shall require annual reports as to such lands from all departments having supervision or control thereof; and shall by general law provide for the sale, lease[,] or other disposition of such lands.

The legislature BY AN ACT ADOPTED [by a resolution concurred in] by TWO-THIRDS [2/3]

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

of the members elected to and serving in each house may [from time to time declare] DESIGNATE any part of such lands AS [to be] a state land reserve. [and may remove lands from such classification.] No lands in the state land reserve may be REMOVED FROM THE RESERVE, sold, leased or otherwise disposed of except by an act of the legislature.

Sec. 6. Aliens who are residents of this state shall enjoy the same rights and privileges in property as citizens of this state.

ARTICLE XI PUBLIC OFFICERS AND EMPLOYMENT

Sec.	Com. Proposal
1. Oath of Office	25a
2. Terms of Office	61a
3. Extra Compensation	62a
4. Custodian of Funds, Accounting	55a
5. Classified Civil Service, creation	22a
6. Civil Service Commission	22a
7. Commission to make rules and fix compensation	22a
8. Increases in Compensation	22a
9. May abolish positions	22a
10. Commission to recommend increases to governor and legislature	22a
11. Commission to receive appropriations	22a
12. Violations of Civil Service Article ..	22a
13. Civil Service, Local Government, county	76a, 81m
14. Impeachment	42a, 42b, 42c, 42d
15. Removal of Elected Officers	42e

Article XI

Public Officers and Employment

Sec. 1. [Members of the legislature and] All officers, LEGISLATIVE, executive and judicial, [shall,] before [they enter] ENTERING upon the duties of their respective offices, SHALL take and subscribe the following oath or affirmation: ["I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of according to the best of my ability."] No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.

Sec. 2. The terms of office of elective state officers, members of the legislature[,] and JUSTICES AND judges of courts of record shall begin at [12:00] TWELVE o'clock noon on the first day of January next succeeding their election, except as otherwise provided in this constitution. The terms of office of county officers shall begin on the first day of January next succeeding their election, except as otherwise provided

by law.

Sec. 3. Neither the legislature nor any political subdivision of this state shall grant or authorize extra compensation to any public officer, agent or contractor after the service has been rendered or the contract entered into.

Sec. 4. No person having custody or control of public moneys shall [have a seat in] BE A MEMBER OF the legislature, [n]or be eligible to any office of trust or profit under this state, until he shall have made an accounting, as provided by law, of all sums for which he may be liable.

Sec. 5. The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the [chief] PRINCIPAL executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legislature, employees of the state institutions of higher education, all persons in the armed forces of the state, [8] EIGHT exempt positions in the office of the governor, and within each principal department, when requested by the department head, [2] TWO other exempt positions, one of which shall be policy-making. The civil service commission may exempt [3] THREE additional positions of a policy-making nature within each principal department.

Sec. 6. The civil service commission shall be non-salaried and shall consist of [4] FOUR persons, not more than [2] TWO of whom shall be members of the same political party, appointed by the governor for TERMS OF [8] EIGHT yearS, [overlapping terms.] NO TWO OF WHICH SHALL EXPIRE IN THE SAME YEAR.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

Sec. 7. The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

No person shall be appointed to or promoted in the classified service who has not been certified BY THE COMMISSION as qualified for such appointment or promotion [by the commission]. No appointments, promotions, demotions or removals in the classified service shall be made for

partisan, racial or religious considerations.

Sec. 8. Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. Within 60 calendar days following such transmission, the legislature may, by a [2/3] TWO-THIRDS vote of the members elected to and serving in each house, reject, reduce, or modify increases in rates of compensation authorized by the commission[:]. [Provided however,] The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases authorized by the commission. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year.

Sec. 9. The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition of a position shall have a right of appeal to the commission through established grievance procedures.

Sec. 10. The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

Sec. 11. To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within [6] SIX months after the conclusion of each fiscal year the commission shall return to the state treasury all [funds] MONEYS unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

Sec. 12. No payment for personal services shall be made or authorized until the provisions of this [article] CONSTITUTION PERTAINING TO CIVIL SERVICE have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

Sec. 13. BY ORDINANCE OR RESOLUTION WHICH SHALL NOT TAKE EFFECT UNTIL APPROVED BY A MAJORITY OF THE ELECTORS VOTING THEREON, each city, village,

township, county, school district[,] and other governmental unit[s] or authorit[ies]Y [performing the same or similar functions] may[, by ordinance or resolution of the governing body which ordinance or resolution shall not take effect until approved by a majority of the electors voting thereon,] establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services [to them] TO ANY SUCH UNIT on a reimbursable basis.

[The board of supervisors of any county with a population of 1,000,000 or more shall have the power by ordinance to establish a merit system for county employment. The ordinance or any amendments thereto shall not take effect until approved by a majority of the electors voting thereon.]

Sec. 14. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected and serving shall be necessary to direct an impeachment.

When an impeachment is directed, the house of representatives shall elect [3] THREE of its members to prosecute the impeachment.

Every impeachment shall be tried by the senate immediately after the final adjournment of the legislature. The senators shall take an oath or affirmation truly and impartially to try and determine the impeachment according to the evidence. When the governor or lieutenant governor is tried, the chief justice of the supreme court shall preside.

No person shall be convicted without the concurrence of [2/3] TWO-THIRDS of the senators elected and serving. Judgment in case of conviction shall not extend further than removal from office, but the person convicted shall be liable to punishment according to law.

No judicial officer shall exercise ANY OF THE FUNCTIONS OF his office after an impeachment is directed until he is acquitted.

Sec. 15. Any elected officer of a political subdivision may be removed from office in the manner and for the causes [prescribed] PROVIDED by law.

ARTICLE XII AMENDMENT & REVISION

Sec.	Com. Proposal
1. By Legislature	64a
2. By Petition of Electors	65a
3. Constitutional Convention	66a

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

Article XII

Amendment & Revision

Sec. 1. Amendments to this constitution may be proposed in the senate or house of representatives. Proposed amendments agreed to by [2/3] TWO-THIRDS of the members elected to and serving in each house on a [yea and nay] vote WITH THE NAMES AND VOTE OF THOSE VOTING entered in the respective journals shall be submitted, not less than 60 days thereafter, to the electors at the next general election or special election as the legislature shall direct. If a majority of electors voting on [such] a proposed amendment approve [such amendment,] THE SAME, it shall become part of the constitution and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved.

Sec. 2. Amendments may be proposed to this constitution by petition of the registered electors of this state. Every petition shall include the full text of the proposed amendment, and be signed by registered electors of the state equal in number to at least 10 percent of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected, or 300,000 registered electors, whichever is less. Such petitions shall be filed with the person authorized by law to receive the same at least 120 days before the election at which the proposed amendment is to be voted upon. Any such petition shall be in the form, and shall be signed and circulated in such manner, as prescribed by law. The person authorized by law to receive such petition[,] shall[,] upon its receipt[,] determine, as provided by law, the validity and sufficiency of the signatures on the petition, and make an official announcement thereof at least 60 days prior to the election at which the proposed amendment is to be voted upon.

Any amendment proposed by such petition shall be submitted, not less than 120 days after it was filed, to the electors at the next GENERAL election. [at which any state officer is to be elected.] Such proposed amendment, existing provisions of the constitution which would be altered or abrogated thereby, and the question as it shall appear on the ballot [used in such election] shall be published in full as provided by law. Copies of such publication shall be posted in each polling place and furnished to news media as provided by law.

The ballot to be used in such election shall contain a statement of the purpose of the proposed amendment, expressed in not more than 100 words, exclusive of caption. Such statement of purpose and caption shall be prepared by the person authorized by law, and shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice

for or against the proposed amendment.

If the proposed amendment is approved by a majority of the electors voting on the question, the proposed amendment shall become part of the constitution, and shall abrogate or amend existing provisions of the constitution at the end of 45 days after the date of the election at which it was approved. IF TWO OR MORE AMENDMENTS APPROVED BY THE ELECTORS AT THE SAME ELECTION CONFLICT, THAT AMENDMENT RECEIVING THE HIGHEST AFFIRMATIVE VOTE SHALL PREVAIL.

Sec. 3. At the general election to be held in the year 1978, and in each 16th year thereafter and at such times as may be provided by law, the question of a general revision of the constitution shall be submitted to the electors of the state. If a majority of the electors voting on the question decide in favor of a convention for such purpose, at an election to be held not later than [4] FOUR months after the proposal was certified as approved, the electors of each [house of] representative[s] district as then organized shall elect one delegate and the electors of each senatorial district as then organized shall elect one delegate. The delegates so elected shall convene at the SEAT OF GOVERNMENT [capital city] on the first Tuesday in October next succeeding such election or at an earlier date if provided by law.

The convention shall choose its own officers, determine the rules of its proceedings and judge the qualifications, elections and returns of its members. The governor shall appoint a qualified resident of the same district to fill a vacancy in the office of any delegate. [If the legislature shall determine that delegates shall be elected on a partisan basis, the governor shall appoint a qualified resident of the same district and of the same party.] WHO SHALL BE A MEMBER OF THE SAME PARTY AS THE DELEGATE VACATING THE OFFICE IF THE LEGISLATURE PROVIDES FOR PARTISAN ELECTION OF DELEGATES. The convention shall have power to appoint such officers, employees and assistants as it deems necessary and to fix their compensation; to provide for the printing and distribution of its documents, journals and proceedings; to explain and disseminate information about the proposed constitution and to complete the business of the convention in an orderly manner. Each delegate shall receive for his services compensation provided by law.

No proposed constitution or amendment adopted by such convention shall be submitted to the electors for approval as hereinafter provided unless by the assent of a majority of all the delegates elected to and serving in the convention, WITH THE NAMES AND VOTE OF THOSE VOTING [the yeas and nays being] entered in the journal. Any proposed constitution or amendments adopted

by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

SCHEDULE AND TEMPORARY PROVISIONS

Sec.	Com. Proposal
1. Attorney general to recommend necessary laws	44d
2. Writs, actions, claims, etc. remain effective	44b
3. Officers continue their duties	44c and 71g
4. Terms of officers elected November, 1962	68b
5. Terms of governor, etc. elected 1964. When 4 year terms begin	80 and 71a
6. Senate Apportionment	80
7. Supreme Court, reduction to seven justices	91a
8. Judges of Probate, eligible for re-election	96f
9. Overlapping terms for judiciary	96j
10. State Board of Education	47a
11. Boards of Control	98c
12. Educational Boards	
13. Initial allocation	71b
14. Contractual obligations remain in force	6a
15. Mackinac Bridge refunding	23b
16. Constitution submitted to people, when	68a
17. Constitution submitted to people, manner	68c

TO INSURE THE ORDERLY TRANSITION FROM THE CONSTITUTION OF 1908 TO THIS CONSTITUTION THE FOLLOWING SCHEDULE IS SET FORTH TO BE EFFECTIVE FOR SUCH PERIOD AS ITS PROVISIONS REQUIRE.

Sec. 1. The attorney general [of the state] shall recommend to the legislature AS SOON AS PRACTICABLE [at the commencement of the next session] such changes AS MAY BE NECESSARY [in existing laws as may be deemed necessary] to adapt EXISTING LAWS [the same] to this constitution.

Sec. 2. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights [of individuals, partnerships, bodies corporate, and of this state or any subdivision or agency thereof] existing on the effective date [hereof] OF THIS CONSTITUTION shall continue unaffected except as modified in accordance with the provisions of this constitution.

Sec. 3. Except as otherwise provided in this constitution, all officers filling any office by election or appointment shall continue to exercise THEIR POWERS AND [the] duties [thereof, according to their respective commissions or appointments,] until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or the laws enacted pursuant thereto.

No provision of this constitution, or of law or of executive order authorized by this constitution shall shorten the term of any person elected to state office at a statewide election ON [in] or prior to THE DATE ON WHICH THIS CONSTITUTION IS SUBMITTED TO A VOTE. [November, 1962.] In the event the duties of any [of] such officers shall not have been ABOLISHED OR incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated OR ABOLISHED.

Sec. 4. All officers elected [on the Tuesday after the first Monday of November, 1962] AT THE SAME ELECTION THAT THIS CONSTITUTION IS SUBMITTED TO THE PEOPLE FOR ADOPTION [under the 1908 Constitution as amended and existing laws] shall take office [on and after the first day of January, 1963,] and complete the term to which they were elected UNDER THE 1908 CONSTITUTION AND EXISTING LAWS AND CONTINUE TO SERVE UNTIL THEIR SUCCESSORS ARE ELECTED AND QUALIFIED PURSUANT TO THIS CONSTITUTION OR LAW.

Sec. 5. Notwithstanding any other provision in this constitution, the governor, THE lieutenant governor, THE secretary of state [and], THE attorney general, AND state senators shall be elected at the general election in 1964 to serve for [2] TWO year terms beginning on the first day of January next succeeding their election. The first [4 year] election OF SUCH OFFICERS FOR FOUR-YEAR TERMS under this constitution shall be held at the general election in 1966.

Sec. 6. The state shall be districted for the purpose of electing senators in accordance with the provisions of [Committee Proposal 80, section a,] ARTICLE IV, SECTION 2 after the official publication of the total population count of the 1970 decennial federal census. Until the [re]apportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution[, as amended,] shall remain intact except that upon the adoption of this constitution each of the counties of Kent, Genesee, Macomb and Oakland shall be divided by the apportionment commission into [2] TWO senatorial districts and Wayne county into [8] EIGHT senatorial districts in accordance with this constitution.

Sec. 7. [A vacancy hereafter created as the result of the death, retirement or resignation of one incumbent justice shall not be filled.]

NOTWITHSTANDING THE PROVISIONS OF THIS CONSTITUTION THAT THE SUPREME COURT SHALL CONSIST OF SEVEN JUSTICES IT SHALL CONSIST OF EIGHT JUSTICES UNTIL THE TIME THAT A VACANCY OCCURS AS A RESULT OF DEATH, RETIREMENT OR RESIGNATION OF A JUSTICE. THE FIRST SUCH VACANCY SHALL NOT BE FILLED.

Sec. 8. Any [supreme court justice, circuit judge,] judge of probate serving [at] ON the [time this constitution becomes] effective DATE OF THIS CONSTITUTION may serve the remainder of the term and be eligible TO SUCCEED HIMSELF for election [to his present office] regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

Sec. 9. The provisions of [this] Article VI providing that terms of JUDICIAL offices shall not all expire at the same time, shall be implemented BY LAW PROVIDING THAT at the next election for such offices [by legislation providing for elections] JUDGES SHALL BE ELECTED for terms of varying length, none of which shall be shorter than the [basic] REGULAR term provided for the office.

Sec. 10. THE MEMBERS OF THE STATE BOARD OF EDUCATION PROVIDED FOR IN ARTICLE VIII SECTION 3 SHALL FIRST BE ELECTED AT THE FIRST GENERAL ELECTION AFTER THE EFFECTIVE DATE OF THIS CONSTITUTION FOR THE FOLLOWING TERMS: TWO SHALL BE ELECTED FOR TWO YEARS, TWO FOR FOUR YEARS, TWO FOR SIX YEARS, AND TWO FOR EIGHT YEARS AS PRESCRIBED BY LAW.

THE STATE BOARD OF EDUCATION PROVIDED FOR IN THE CONSTITUTION OF 1908 IS ABOLISHED AT TWELVE O'CLOCK NOON JANUARY 1 OF THE YEAR FOLLOWING THE FIRST GENERAL ELECTION UNDER THIS CONSTITUTION AND THE TERMS OF MEMBERS THEREOF SHALL THEN EXPIRE.

Sec. 11. THE PROVISIONS OF THIS CONSTITUTION PROVIDING FOR MEMBERS OF BOARDS OF CONTROL OF INSTITUTIONS OF HIGHER EDUCATION AND THE STATE BOARD OF PUBLIC COMMUNITY AND JUNIOR COLLEGES SHALL BE IMPLEMENTED BY LAW. THE LAW MAY PROVIDE THAT THE TERM OF EACH MEMBER IN OFFICE ON THE DATE OF THE VOTE ON THIS CONSTITUTION MAY BE EXTENDED, AND MAY FURTHER PROVIDE THAT THE INITIAL TERMS OF OFFICE OF MEMBERS MAY BE LESS THAN EIGHT YEARS.

Sec. 12. THE PROVISIONS OF THIS CONSTITUTION INCREASING THE NUMBER OF MEMBERS OF THE BOARD OF TRUSTEES OF MICHIGAN STATE UNIVERSITY AND OF THE BOARD OF GOVERNORS OF WAYNE STATE UNIVERSITY TO EIGHT, AND OF THEIR TERMS OF OFFICE TO EIGHT YEARS, SHALL BE IMPLEMENTED BY LAW. THE LAW MAY PROVIDE THAT THE TERM OF EACH MEMBER IN OFFICE ON THE DATE OF THE VOTE ON THIS CONSTITUTION MAY BE EXTENDED ONE YEAR, AND MAY FURTHER PROVIDE THAT THE INITIAL TERMS OF OFFICE OF THE ADDITIONAL MEMBERS MAY BE LESS THAN EIGHT YEARS.

Sec. 13. The initial allocation of departments by law pursuant to Article V, Section 2 shall be completed within two years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make the initial allocation.

Sec. 14. Contractual obligations of the state incurred pursuant to the constitution of 1908 [as amended] shall continue to be obligations of the state.

For the retirement of [such] notes and bonds [as may have been] issued under Section 26 of Article X of the 1908 constitution, there is hereby appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each [such] year.

Sec. 15. [Provided however, That] The legislature [is authorized to provide by general law adopted] by a vote of [2/3] TWO-THIRDS of the members elected to and serving in each house MAY PROVIDE THAT THE STATE MAY [for the] borrow[ing of] money AND MAY PLEDGE ITS FULL FAITH AND CREDIT for [the] refunding [of] any bonds issued by the Mackinac Bridge Authority[,] AND at [which] THE time OF REFUNDING the Mackinac Bridge Authority [Act] shall be [repealed] ABOLISHED and the operation of the bridge SHALL be assumed by the state highway department. THE LEGISLATURE MAY IMPLEMENT THIS SECTION BY LAW.

Sec. 16. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the Tuesday after the first Monday of November, 1962. It shall be the duty of the secretary of state forthwith to give notice of such submission to all other officers required to give or publish any notice in regard to A GENERAL [such] election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.

Sec. 17. Every registered elector may vote

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.

If so, the secretary will lock the machine and record the vote.
MR. POWELL.

MR. POWELL: Mr. President, may I request the vote of the Chair?

VICE PRESIDENT HUTCHINSON: The Chair votes yes.

MR. POWELL: Thank you.

The roll was called and the delegates voted as follows:

Yeas—71

Anspach	Habermehl	Powell
Baginski	Hannah, J. A.	Prettie
Batchelor	Haskill	Pugsley
Beaman	Hatch	Radka
Bonisteel	Howes	Richards, J. B.
Boothby	Hoxie	Rood
Brake	Hubbs	Shackleton
Brown, G. E.	Hutchinson	Shaffer
Butler, Mrs.	Iverson	Shanahan
Conklin, Mrs.	Karn	Sharpe
Dehnke	King	Sleder
Dell	Kirk, S.	Spitler
Donnelly, Miss	Koeze, Mrs.	Stafseth
Doty, Dean	Kuhn	Stamm
Doty, Donald	Leibrand	Sterrett
Durst	Leppien	Thomson
Erickson	McAllister	Tubbs
Everett	Millard	Turner
Farnsworth	Mosier	Tweedie
Flgy	Page	Wanger
Finch	Pellow	White
Gadola	Perlich	Wood
Gover	Perras	Yeager
Gust	Plank	

Nays—64

Allen	Ford	McLogan
Andrus, Miss	Goebel	Murphy
Austin	Greene	Nord
Balcer	Hanna, W. F.	Ostrow
Barthwell	Hart, Miss	Pollock
Bentley	Hatcher, Mrs.	Rajkovich
Binkowski	Heideman	Richards, L. W.
Blandford	Higgs	Romney
Bledsoe	Hodges	Sablich
Bradley	Jones	Seyferth
Brown, T. S.	Judd, Mrs.	Snyder
Buback	Kelsey	Stalger
Cushman, Mrs.	Knirk, B.	Stevens
Dade	Krolikowski	Stopczynski
Danhof	Lesinski	Suzore
DeVries	Madar	Upton
Douglas	Mahinske	Van Dusen
Downs	Marshall	Walker
Elliott, A. G.	Martin	Woolfenden
Elliott, Mrs. Daisy	McCauley	Young
Faxon	McGowan, Miss	Youngblood
Follo		

SECRETARY CHASE: On the adoption of the amendment offered by Mr. Powell and others, the yeas are 71; the nays are 64.

VICE PRESIDENT HUTCHINSON: The amendment is adopted. The secretary will read the next amendment.

SECRETARY CHASE: Messrs. Austin, Lesinski, Marshall, Binkowski, Stopczynski, Jones and Mrs. Daisy Elliott offer the following amendment:

1. Amend article IX, section 7 (column 1, lines 9 through 11) by striking out all of section 7 which reads:

Sec. 7. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, this has been rather thoroughly debated already by the convention. I would move to limit debate to 10 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate to 10 minutes, all those in favor will say aye. Opposed, no. Debate is limited. The Chair recognizes Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I don't even feel the need to make a speech on this subject because I have talked on it many times already. I would simply urge the

delegates to vote in favor of this amendment because the section places an undue and unnecessary restriction on the legislature.

It should be borne in mind that the proponents of this amendment are not advocating a graduated income tax. Indeed, they are not advocating any form of income tax. All they are saying is that the legislature should have full discretion to levy whatever form of income tax it desires to impose. Further, I would like to remind the delegates that there is no other state constitution that has a prohibition of a graduated income tax, and all except 2 of the states that have an income tax have resorted to a graduated rate structure.

It is important for the legislature to have this freedom because, if at any time the legislature should feel compelled to use the income tax as a source of revenue for substantial state tax reform it may be necessary to go to a graduated rate structure to raise sufficient revenues. Also, it is important for the legislature to be able —

VICE PRESIDENT HUTCHINSON: Mr. Austin, will you suspend a moment?

MR. AUSTIN: Yes, thank you.

VICE PRESIDENT HUTCHINSON: The Chair urges the delegates to please maintain a decorum. Many of you have in times past, I am sure, been very critical of legislative bodies and you have probably sat in galleries and been very critical of legislative bodies because they seemed to be paying no attention, and if you were up here in this Chair or if you were out there in that gallery and you saw the whole thing as it can be seen from these 2 points, you would be absolutely amazed at the lack of decorum that exists in this room.

The Chair urges the delegates to respect the decorum of this body. If it is necessary for you to talk with another delegate, quietly go to him and get him out in the hall. Please do not carry on the way that you have been carrying on here. The Chair appreciates that it is convenient and sometimes necessary to carry on and have conferences but, my fellow delegates, if you are interested at all in your public image you will quickly mend your ways.

Mr. Austin, you may continue.

MR. AUSTIN: Thank you, Mr. President, you have been very kind. (applause) I sincerely hope that the decorum is not an indication that the delegates have already made up their minds on this issue and do not care to hear any more speeches on it.

I would simply close my remarks by saying that the people of the state of Michigan called this constitutional convention primarily because they were interested in the fiscal problems of the state of Michigan. The legislature had either shown an unwillingness or an inability to provide sufficient revenues to pay the cost of government. We are not expected in this convention to write a tax program. We are required, however, to provide the framework for the legislature to write or to develop a tax program, particularly a tax reform program. I submit that with this restriction we are making it difficult for the legislature to do the job that the people of Michigan expect it to do and we are rendering a disservice to the people who called this convention by placing this restriction in the constitution. I urge a yes vote on this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Martin.

MR. MARTIN: Mr. President, I have been trying to check the record. I wanted to raise a point of order. It appears to me that this precise matter has been considered once before by the body and that it is, therefore, out of order at this time, but I have not been able to locate the citation that I wanted to make —

MR. AUSTIN: Mr. President.

MR. MARTIN: — however, I —

VICE PRESIDENT HUTCHINSON: Mr. Martin —

MR. AUSTIN: Oh.

VICE PRESIDENT HUTCHINSON: — you raised a point of order?

MR. MARTIN: I do raise a point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Austin, are you speaking on the point of order?

MR. AUSTIN: Yes, I think the reason he has had difficulty finding it is because the matter is not in the record because we have not voted precisely on this question. We have taken up the

matter of the graduated income tax before, but the provision or the section that we now have is a separate section of the constitution. Before, the graduated income tax was a part of another section or proposal and, since style and drafting has seen fit to handle it in this way, it is a matter of considering whether this section of the proposed constitution should be stricken, and I submit that it is a different matter now.

VICE PRESIDENT HUTCHINSON: A search of the secretary's records shows that the point of order is not well taken. The particular provision which was sought to be stricken was offered at one time as part of another amendment and was not an amendment all by itself, and so the point will not be sustained and the Chair will recognize Mr. Martin to speak upon the amendment if he desires.

MR. MARTIN: Thank you, Mr. President. The amendment that is before us, while not out of order, is essentially the same amendment that was offered before. The matter was discussed at great length.

The simple fact is that we do now have the most steeply graduated income tax in the world in effect on incomes of people of all levels of income here in the state of Michigan, in the federal income tax. And it seems highly discriminatory — and it can be extremely discriminatory — if we were to enact in Michigan a state income tax with a highly progressive rate. At the rate of increase in state expenditures, there is every reason to believe that if such an income tax were enacted and if this prohibition were not in the constitution it would have a highly progressive rate. This is particularly true because those who have to vote such a highly progressive rate may, in many instances, not have to pay it. It seems undesirable, therefore, that if Michigan is to have an income tax that it have anything other than a flat rate tax with appropriate exemptions at the lowest level for those who cannot be properly taxed because of the low level of their income. I certainly oppose this amendment. I hope the convention will do what it has done before and that is to defeat the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: Mr. President, I would like to renew the point of order made earlier by Mr. Martin and cite to the Chair Journal 75, page 557. On February 8, of this year, Mr. Austin offered an amendment to Committee Proposal 51, which would have stricken the language which is now the section before us and no other language, and that amendment was defeated 69 to 60.

VICE PRESIDENT HUTCHINSON: What is the page again?

MR. VAN DUSEN: Page 557.

VICE PRESIDENT HUTCHINSON: Was this outside of the committee of the whole?

MR. VAN DUSEN: It has been called to my attention, Mr. President, that the amendment offered then did include one other line, but it seems to me that, nevertheless, the point is well taken.

VICE PRESIDENT HUTCHINSON: Responding to the point of order, the Chair would cite the journal, page 557, where Mr. Austin offered an amendment to Committee Proposal 51, and the amendment that Mr. Austin then proposed was to strike out of page 1, all of lines 21 and 22, and to strike out all of page 2. This, then, was the matter upon which the convention acted at that time:

Every other tax shall be uniform upon the class or classes on which it operates. No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions. Now, it would seem as though the amendment which the body acted upon before was to strike out not only the reference to the income tax but the first sentence, also, which said, "Every other tax shall be uniform upon the class or classes on which it operates." It would therefore seem that the present amendment is in order. Mr. Brake.

MR. BRAKE: Mr. President and ladies and gentlemen of the convention, this matter has been thoroughly debated on the merits and I shall not go into those merits at all.

I call your attention again to the fact that for years lawyers, including attorneys general, have differed on whether or not the legislature had the power to levy a graduated income tax. Your committee's first determination was that we should clear the air.

We should say yes or no, so that no one would need to guess. The committee's determination was that we should say no and prohibit a graduated income tax. Now, we still have the same attitude. If you think it is wrong to prohibit it, then you should say yes, the legislature may levy a graduated income tax. We should say it one way or the other. It was the judgment of the committee and my personal judgment that we should say no, just as we have done.

VICE PRESIDENT HUTCHINSON: Mr. Jones.

MR. JONES: Mr. President and fellow delegates, it appears to me that a yes vote on this amendment would allow the legislature the opportunity to levy a tax based on the ability to pay. This is the most just form of taxation and I disagree with the comments of those who would claim it is discriminatory. I have yet to see anyone making \$20,000 and more that would be willing to trade places with persons making \$5,000 or less. It certainly does not tax them out of their financial position.

Also, we have heard several arguments wanting to hold the line on property taxation in terms of the amount of millage which can be levied. Now they have succeeded in writing these restrictions into this constitution. Yet they also say that we need other sources of revenue to operate this state. And now these same people who expressed concern about property taxation also want to turn around and tie the hands of the legislature as to what kind of income tax may be levied in this state. Therefore, ladies and gentlemen, I strongly urge a yes vote on this amendment and let us give the legislature the right to do what would be best in the interests of securing proper revenue for this state.

VICE PRESIDENT HUTCHINSON: Mr. Dean Doty.

MR. DEAN DOTY: Mr. President and members of the convention, it is with a great deal of pleasure that I rise to support this amendment and the members of the minority party who join me in trusting the legislature. I was opposed to this section in committee. I have been opposed to it since. I don't believe it belongs in this document and I would urge a yes vote on this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Madar.

MR. MADAR: Mr. President, I just wanted to add to what Mr. Jones has said. I believe that those who have the ability to pay should pay. I am thankful to God and this country that I have been able to get more than 2 or 3 or 4 or 5 thousand dollars a year, and I believe that having the ability to pay I should be made to pay to help keep our government going.

Here we are in this convention trying to do everything we can to keep from paying any taxes. We have even gone to the extreme where we even say: well, we don't care what you do; don't tax us. Tax anybody else. And, well, we even go ahead and say: well, you can't even hold a lottery to raise money. For heaven's sake, how are we going to raise money?

VICE PRESIDENT HUTCHINSON: Mr. Young.

MR. YOUNG: Mr. President, I agree with Mr. Brake that this issue has been well thrashed out on this floor and it is not necessary to add much to the argumentation. I would only like to point out, however, that the position taken so far by this convention on this basic issue of graduated income tax is but another example of the very sizeable tendency in this convention to turn the clock backward. Now the issue of graduated income tax was settled in 1913 —

VICE PRESIDENT HUTCHINSON: Time has expired for debate.

MR. BRAKE: May we have the yeas and nays, Mr. President?

VICE PRESIDENT HUTCHINSON: The demand for the yeas and nays is made by Mr. Brake. Is the demand supported?

SECRETARY CHASE: A sufficient number up.

VICE PRESIDENT HUTCHINSON: A sufficient number up.

MR. AUSTIN: Mr. President; Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Austin.

MR. AUSTIN: How many additional speakers do you have on this subject?

VICE PRESIDENT HUTCHINSON: The Chair has only 2.

MR. AUSTIN: Well, Mr. President, may I move that we extend the debate 4 minutes to allow each speaker 2 minutes?

VICE PRESIDENT HUTCHINSON: Mr. Austin moves to extend debate upon this amendment 4 minutes. All those in favor will say aye. Opposed, no. The Chair is in doubt.

MR. AUSTIN: Division, Mr. President.

VICE PRESIDENT HUTCHINSON: Division is called for. All those in favor of extending debate will vote aye. Those opposed will vote no. Have you all voted? This is a division vote only. The secretary will lock the machine and record the total.

SECRETARY CHASE: On the motion to extend the debate for 4 minutes, the yeas are 85; the nays are 44.

VICE PRESIDENT HUTCHINSON: The motion prevails. The Chair recognizes Mr. Young.

MR. YOUNG: Mr. President, in deference to the fact that there are other speakers, I will shorten my remarks.

As I was indicating, the principle of a graduated income tax was settled in this country in 1913 with the institution of the federal income tax. Now the refusal of the majority in this convention to recognize this basic fact of history is an indication of nineteenth century thinking applied to twentieth century fiscal problems, and to continue arbitrary restrictions in this constitution against a much needed tax revision is another indication of the unwillingness of this convention to face the problems of the twentieth century.

VICE PRESIDENT HUTCHINSON: Mr. King.

MR. KING: Mr. President and fellow delegates, I am strongly opposed to this amendment. An income tax at the federal level, as far as I am concerned, is all right, but I do feel that the federal government has preempted this area of taxation just in the same way that the local units of government have preempted the area of property taxation. Imagine what would happen if the federal government, if the state government, if the county government, and if the local units of government all imposed graduated income taxes. The total tax might add up to more than 100 per cent.

Now I have stood up here before and said this and I will say it again: I am for the little people, but the little people don't need just welfare. That is the second best substitute, as far as I am concerned. What we need in this state is employment, full employment, and the way to achieve that is to create an economic climate in this state which will induce businessmen to come into this state, and by the kind of provision which we have, up until this time, put into our draft we are going to encourage businessmen to have confidence in the fiscal stability and the taxation of the state of Michigan. I certainly think that this amendment ought to be resoundingly defeated.

VICE PRESIDENT HUTCHINSON: Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, I wanted to respond to the remarks of Mr. Martin and now Mr. King, also. I would like to remind them that the performance of the legislature should indicate to them that they can trust the legislature on matters of income taxation. The legislature has shown a reluctance to levy any kind of an income tax, and I have a feeling that they would have some fear to graduate the structure even if they had the freedom to do so. What we are arguing is that they ought to have that freedom.

Now, in direct response to the remarks of Mr. Martin and Mr. King about the graduated structure of the federal income tax, it should be borne in mind that a state income tax is deductible from income in arriving at the federal income tax liability and the fact that we do have a graduated structure at the federal level is one of the reasons for the state to adopt a graduated rate structure. It is one of the ways of preventing Michigan taxpayers from contributing disproportionately to federal projects. I would also like to point out, for the benefit of Mr. King, that the states of California and New York are traditional income tax states and I do not believe that the income tax has deterred industrial growth in those states. I urge a yes vote on this amendment.

VICE PRESIDENT HUTCHINSON: Mr. Goebel.

MR. GOEBEL: Mr. President and fellow delegates, I completely agree with the facts as laid down by Mr. Martin that we already have a very highly graduated federal income tax and we should not have one at the state level. And I also agree with Mr. King that we need to do everything that we possibly can to encourage industry to come into this state and, regardless of the

arguments that may be given in favor of a graduated tax, I am afraid if we do have a graduated income tax the results are not going to be what we expect. I urge a no vote against this amendment.

VICE PRESIDENT HUTCHINSON: Time for debate has expired on this amendment. Mr. Mahinske.

MR. MAHINSKE: Do you have other speakers on the list, Mr. President?

VICE PRESIDENT HUTCHINSON: The yeas and nays have been ordered on this. Why, yes; at the moment there are 3 more. You know they keep growing as time goes on.

MR. MAHINSKE: Well, I would like to limit debate for an additional 6 minutes to these 3, allotting 2 minutes to each speaker, and I so move.

DELEGATES: No. No.

VICE PRESIDENT HUTCHINSON: Well, that's not a debatable motion. The Chair will put it.

MR. MAHINSKE: Mr. President, a preferential motion.

VICE PRESIDENT HUTCHINSON: What's the preferential motion?

MR. MAHINSKE: I move the previous question.

VICE PRESIDENT HUTCHINSON: Well, that's not preferential.

The question is upon the motion of Mr. Mahinske to extend debate upon this amendment 6 more minutes. All those in favor will say aye. Opposed, no.

That motion doesn't prevail.

MR. MARSHALL: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Marshall, for what purpose do you rise?

MR. MARSHALL: I don't know why we should be so arrogant about this. I think we ought to discuss it. It is a very important issue as it affects the people of this state. I move that we extend debate for 4 minutes and allocate it equally among the remaining speakers, unless you just want to cram this down without hearing what some of the other speakers have to say.

VICE PRESIDENT HUTCHINSON: Mr. Marshall moves to extend debate 4 minutes. All those in favor will say aye. All those opposed will say no.

That motion doesn't prevail. The question is upon the adoption of the amendment offered by Messrs. Austin, Lesinski, Marshall, Binkowski, and others, which has been read. The yeas and nays have been ordered. 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—52

Andrus, Miss	Ford	Murphy
Austin	Garvin	Nord
Baginski	Greene	Ostrow
Barthwell	Hart, Miss	Pellow
Bentley	Hatch	Perlich
Binkowski	Hatcher, Mrs.	Pollock
Bledsoe	Hodges	Rajkovich
Bradley	Howes	Sablich
Brown, T. S.	Jones	Snyder
Buback	Kelsey	Stamm
Cushman, Mrs.	Krolkowski	Sterrett
Dade	Lesinski	Stopczynski
Doty, Dean	Madar	Suzore
Douglas	Mahinske	Tubbs
Downs	Marshall	Walker
Elliott, Mrs. Daisy	McCauley	Wilkowski
Faxon	McGowan, Miss	Youngblood
Follo		

Nays—82

Allen	Gust	Powell
Balcer	Habermehl	Prettie
Batchelor	Hannah, J. A.	Pugsley
Beaman	Haskill	Radka
Blandford	Heideman	Richards, J. B.
Bonisteel	Higgs	Richards, L. W.
Boothby	Hoxie	Romney
Brake	Hubbs	Rood
Brown, G. E.	Iverson	Seyferth
Butler, Mrs.	Judd, Mrs.	Shackleton

Conklin, Mrs.	Karn	Shaffer
Cudlip	King	Shanahan
Danhof	Kirk, S.	Sharpe
Dehnke	Knirk, B.	Sleder
Dell	Koeze, Mrs.	Spitler
DeVries	Kuhn	Stafseth
Donnelly, Miss	Lawrence	Staiger
Doty, Donald	Leibrand	Stevens
Durst	Leppien	Thomson
Elliott, A. G.	Martin	Turner
Erickson	McAllister	Tweedie
Everett	McLogan	Upton
Farnsworth	Millard	Van Dusen
Figy	Mosier	Wanger
Finch	Page	White
Gadola	Perras	Wood
Goebel	Plank	Woolfenden
Gover		

SECRETARY CHASE: On the amendment of Mr. Austin and others to strike out section 7, the yeas are 52; the nays are 82.

VICE PRESIDENT HUTCHINSON: The amendment is not adopted.

SECRETARY CHASE: Messrs. Brake, Austin, Van Dusen, Faxon, Goebel, Nord and Mrs. Cushman offer the following amendment:

1. Amend article IX, section 4 (column 1, line 55) after "Sec. 4," by striking out the balance of the section and inserting "Property owned and occupied by a non-profit religious organization and used exclusively for religious purposes, as defined by law, shall be exempt from real and personal property taxes."

VICE PRESIDENT HUTCHINSON: Mr. Brake.

MR. BRAKE: Mr. President, ladies and gentlemen of the convention, as I have said before, I think that this exemption has no place in the constitution at all. It is a statutory exemption now and, so far as anybody has indicated, will always remain as a statutory exemption. But if we are to keep it, we think it ought to be put in a little better shape than it is now.

This proposed amendment, as you note, leaves out the charitable organizations and the burial grounds part of section 4. The term "religious purposes" is a pretty well defined term not susceptible to 2 different interpretations. When you get to the term "charitable" or "charitable organizations," you have an entirely different situation. It is not a term that is well defined and I think everybody knows the problem that goes along in the way of pseudo organizations, chiselers who claim to be charitable, who actually are not, and anybody who reads the Detroit papers and has for 20 or 30 years knows of the constant charges that are made in connection with chiseling in connection with burial grounds.

Now this does not in any way take those exemptions out of the statutes. They will remain just as they are. But it does not give them constitutional status. So that if the legislature from time to time finds ways in which it can eliminate the chiseling and the abuses in connection with them, it can do so. If we freeze it into the constitution, the legislature will not have that opportunity. We think as a minimum this amendment ought to be adopted so as to cut down the problems that exist in connection with charitable organizations and burial grounds.

VICE PRESIDENT HUTCHINSON: Mr. Danhof.

MR. DANHOF: Mr. President and members of the convention, this particular provision, as you are aware, has had a somewhat long and stormy history before this particular body. I wish to state that I was one of the original signers of the original provision when it was introduced on general orders, and I have continued to support this particular provision as it is now written.

Now, the present amendment offered by Mr. Brake and others recognizes, apparently, the principle which is embodied in the instant provision. It is now argued that we should limit this to religious institutions, religious organizations. I submit that if we take out educational and charitable, we will be spending the rest of our time telling the school people — and I talk specifically, now, about the small, private schools — why we, in effect, discriminated against them.

Now you have written this in here; rightly or wrongly, it is now in and I submit that if you adopt the present amendment

you will, in effect, be emasculating the section, and this is but a beginning to strike the entire section. If that is what they want to do, then I think we should argue it on those merits. To go to work on it piecemeal and to chop it inch by inch, I do not think is a wise course for this particular convention to take.

Now we have read recently concerning what this might or might not do and there was distributed to you an opinion written by one of our codirectors of research and an associate dean of the University of Michigan law school. I think that this will answer any and all of the arguments which were made by Mr. Lock in the letter which all of us got. It leaves it in the hands of the legislature to define what these particular institutions are and, also, to define property and all of the other items which precede the words, "as defined by law." This is the intent of the provision.

Now, it will be argued that if this is true then why do we have it. Well, I refer you to that eminent car salesman from Allegan, Mr. Farnsworth. When we were discussing the justices of the peace and we had the provisions relative to the lower courts, he said, "This is a good selling point." And I submit that this particular provision is "a good selling point." It is simply an enunciation of a principle and it is something which, if Mr. Farnsworth can take back the idea of lower courts, there are others of us who can take this particular provision back and use it as a "selling point." You have written it into the constitution. If you pull it out at this late date, I think that there may be wrong interpretations as to the particular motives of this convention.

As I stated before, I was one of the original sponsors of the amendment. I haven't been pressured. I was on before the mail started to come. I supported the original provision. I supported it as it is now written. I think it is well written. I think the legal worries have been answered. I think, as many of you have stated and know of your own knowledge, that this particular provision has met with general approval in many, many areas of this state. And to take it out at this particular time, in my opinion, would be a mistake. Leave it alone. Leave it the way it is written. I urge the rejection of the amendment.

VICE PRESIDENT HUTCHINSON: Mr. Everett.

MR. EVERETT: Mr. President and fellow delegates, I subscribe to the eloquent remarks of Mr. Danhof. He leaves very little to be said against this amendment. I think he has destroyed the amendment. I would only suggest 2 items which he has not touched upon: if we adopt this amendment and take out of the constitution what we have carefully put in, we are, in effect, saying that the many legitimate charitable groups of this state which have no religious connections at all but are sponsored, many of them, by fraternal groups and veterans' groups are not entitled to tax exemptions which they have had for years. Granted that it is in the statutes and granted that the legislature is unlikely to act, we are by indirection saying: you need no longer act in this area because the constitutional convention doesn't think that charitable institutions are entitled to this. The same arguments can be used as to the burial grounds.

The language which we have used in the tax exemption clause of the constitution is much more limited than the present exemptions by statutes. There were practical reasons why cemeteries have traditionally been granted tax exemption. The courts have pointed this out. Suppose they were not tax exempt and they failed to pay their taxes and the governmental unit foreclosed the lien. What does it do with the burial ground after it has acquired it? I think all of us have enough respect for the dead to recognize that we cannot desecrate burial grounds and yet this is the only alternative left to them: sell it, or operate it as a cemetery. This is exactly why cemeteries are now tax exempt, and they are tax exempt today without regard as to whether they are profit or nonprofit institutions — an exemption considerably beyond what we are suggesting.

Mr. Brake has suggested that this is statutory, that the legislature would not move, and I don't quarrel with him. But there are tens of thousands of people in this state who do not recognize this fact and to them we have granted protection for an historical principle in which they believe very highly. Yesterday, many of us here urged that we rewrite into the constitution a declaration

Proposal 36, which on April 19, as shown on page 1052 of the journal, was stricken and defeated by a vote of 71 to 46. For that reason I do not believe the amendment is now in order. I recognize that there is a slight difference in the wording but I don't think there is any difference in the substance and I think that under the rules there is no question but what this is out of order.

MR. AUSTIN: Mr. President, may I speak to the point of order?

VICE PRESIDENT HUTCHINSON: You may speak to the point, Mr. Austin.

MR. AUSTIN: At the time the committee proposal was presented to the floor, we had abolished the state aid fund, the school aid fund, as it was called at that time, and we have now, under the amendment which was adopted on the floor, provided for a school aid fund to which certain taxes are to be contributed and to which the legislature may contribute other dedicated revenues through legislation. This merely provides that this is another source of revenue to be contributed to that particular fund. I submit that this is a different proposition.

MR. VAN DUSEN: Mr. President, Mr. Austin is in error when he says that we had at that point abolished the school aid fund. On page 1046 of the journal, we adopted Committee Proposal 39, which said, "There shall be established a state school aid fund" — adopted a substitute for it which made that provision.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen, will you cite again your reference with regard to what was before the body before? Page what?

MR. VAN DUSEN: Page 1052, Mr. President, of the journal, April 19, Committee Proposal 36. An amendment was offered by Mr. Brake, on behalf of the committee on finance and taxation, to strike out the entire proposal, which was substantially the same as the language now offered by Mr. Austin, and that amendment carried 71 to 46. So that Mr. Austin now proposes to insert in the constitution that which was stricken on second reading.

VICE PRESIDENT HUTCHINSON: Mr. Austin, will you accept the point of order?

MR. AUSTIN: Yes.

VICE PRESIDENT HUTCHINSON: All right. Mr. Austin accepts the point of order and withdraws his amendment. The secretary will read the next amendment.

SECRETARY CHASE: I have no other ones.

VICE PRESIDENT HUTCHINSON: No other amendments? The question is upon the passage of article IX, as amended.

MR. VAN DUSEN: Mr. President, if there are no further amendments, I would like to move to limit further debate on this article to 5 minutes.

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen moves to limit debate upon the article to 5 minutes. All those in favor will say aye. Opposed, no.

The motion prevails. Debate is so limited. Mr. Austin.

MR. AUSTIN: Mr. President, this may be unfair because I have a 5 minute speech here.

VICE PRESIDENT HUTCHINSON: You are recognized, Mr. Austin.

MR. AUSTIN: Mr. President and fellow delegates, the committee on finance and taxation worked very hard to develop what is now article IX. There have been many developments on which there is substantial bipartisan support: I would like to call attention to the removal of the prohibition to taxation by reference to other legislation which permits the freedom to piggyback to other forms of taxation. There has been some relaxation of the 15 mill limitation. We have raised the debt limit. We have provided for refunding of the Mackinac bridge bond issue. We have provided for pensions, recognized the obligation to fund these pension funds properly for public employees. We have also relaxed the restrictions on the investment of pension and trust funds. We have updated the language and the style of the section and we have even done something for nonprofit corporations in providing exemptions for them.

Much of this good work has been offset by what I consider to be some blinders that we put on in regard to giving the legislature more freedom in the area of taxing power. We have placed a restriction on assessment of tangible property to 50 per cent of

the cash value of that property. I don't believe there is any need at this time to elaborate on the great harm that this 50 per cent of cash value standard does to many areas of our state. We have retained the uniformity clause for assessment of property, not giving the local units of government or the legislature the right to classify any of the property. We have provided a prohibition to a graduated income tax which, in the long run, may do great harm in restricting the legislature in its ability to raise sufficient revenues from any income tax levy, should it ever desire to impose such a levy. We have removed a good deal of the earmarking of taxes for schools. Just a few moments ago we restored the earmarking of 1/2 of the sales tax for schools but we have not restored the earmarking of the taxes now contributing to the primary school interest fund.

Throughout the deliberations, the committee has not responded to the pleas of those of us from the more populous areas, our pleas for more freedom to levy taxes because so much of the property is now being pulled off the tax rolls and because of the general inadequacy of the property tax as a major source of revenue at the local level. There is a need for more revenue and there is more need for flexibility in levying property taxes.

I think one of the most unfortunate situations that has developed here at the convention is that a good deal of the decisions in regard to some of these major issues in regard to taxation were not deliberated in the committee on finance and taxation. Decisions were made off the floor in connection with a proposition which has been mentioned very often here on the floor. I think that we would have had a happier situation had the leadership, the minority leadership, been consulted on some of these major changes. I was informed today that the minority leadership has been consulted on only one issue before this convention since February, and that was on the parimutuel issue.

I submit that there are a good number of other issues particularly the issues of taxation —

VICE PRESIDENT HUTCHINSON: Time.

MR. AUSTIN: Thank you. I urge the defeat of this article.

VICE PRESIDENT HUTCHINSON: The question is upon the passage of article IX, finance and taxation, as amended. Time for debate upon it has expired. All those in favor of the passage of article IX — for what purpose, Mr. Wanger?

MR. WANGER: How many other speakers were there seeking recognition?

VICE PRESIDENT HUTCHINSON: There wasn't anyone.

MR. WANGER: I see. Mr. President, I wish to announce my intention to abstain for the purpose of forcing a reconsideration of the Bentley amendment. I urge others to do likewise.

VICE PRESIDENT HUTCHINSON: Mr. Wanger abstains. The question is upon the passage of article IX, finance and taxation, as amended. All those in favor of the adoption of article IX 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—90

Andrus, Miss	Haskill	Powell
Anspach	Hatch	Prettie
Batchelor	Heideman	Radka
Beaman	Higgs	Rajkovich
Bentley	Howes	Richards, J. B.
Boothby	Hoxie	Richards, L. W.
Brake	Hutchinson	Romney
Brown, G. E.	Iverson	Rood
Butler, Mrs.	Judd, Mrs.	Seyferth
Conklin, Mrs.	Karn	Shaffer
Cudlip	Kelsey	Shanahan
Danhof	Kirk, S.	Sharpe
Dehnke	Knirk, B.	Sleder
Dell	Koeze, Mrs.	Spitler
Donnelly, Miss	Krolikowski	Stafseth
Doty, Dean	Kuhn	Stalger
Doty, Donald	Lawrence	Stamm
Elliott, A. G.	Leibrand	Sterrett
Erickson	Leppien	Stevens
Everett	Mahinske	Suzone
Farnsworth	Martin	Thomson

Figy	McAllister	Tubbs
Finch	McCauley	Turner
Gadola	McGowan, Miss	Tweedie
Goebel	Millard	Van Dusen
Gover	Mosler	White
Gust	Page	Wilkowski
Habermehl	Perras	Wood
Hanna, W. F.	Plank	Woolfenden
Hannah, J. A.	Pollock	Yeager

Nays—36

Allen	Downs	Nord
Austin	Elliott, Mrs. Daisy	Norris
Baginski	Faxon	Ostrow
Balcer	Follo	Pellow
Binkowski	Ford	Perlich
Bledsoe	Hart, Miss	Sablich
Bradley	Hatcher, Mrs.	Snyder
Brown, T.S.	Hodges	Stopczynski
Buback	Jones	Upton
Cushman, Mrs.	Lesinski	Walker
Dade	Madar	Young
Douglas	Marshall	Youngblood

SECRETARY CHASE: On the passage of article IX, as amended, the yeas are 90; the nays are 36.

VICE PRESIDENT HUTCHINSON: A majority of the delegates elect having voted in favor thereof, **article IX**, as amended, is passed.

For sections 1, 2, 3, 5, 7, 8, 9, 10, 12 through 17 and 20 through 24 of article IX as passed, see above, page 3067.

Following is section 4 of article IX as amended and passed:

Sec. 4. Property owned and occupied by a non-profit religious or educational organization and used exclusively for religious or educational purposes, as defined by law, shall be exempt from real and personal property taxes.

Following is section 6 of article IX as amended and passed:

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. The limitations established by this constitution or by county vote 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 Article II, Section 6 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 or charter 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.

Following is section 11 of article IX as amended and passed:

Sec. 11. There shall be established a state school aid fund. The legislature shall provide moneys for this fund, including one-half of all sales tax revenues on tangible personal property as part of the dedicated tax revenues,

which shall be used exclusively for the support of public education and school employees' retirement systems. Payments from this fund shall be made in full on a scheduled basis, as provided by law.

Following is section 18 of article IX as amended and passed:

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.

Following is section 19 of article IX as amended and passed:

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.

Following is explanation of vote submitted by Mr. Upton:

I voted no on article IX — the finance and taxation article in the firm belief that the action taken by the convention in reinserting earmarking of sales tax funds for public education was not for the best interest of our state and public education. Michigan constitutionally earmarks over 60 per cent of its revenues — more than any other state and a definite impediment to overall tax reform. This action by the convention removes at least \$200 million from the general fund — money which is lost to control by the legislature and also to the attention of all citizens of Michigan. The legislature has proven that it can appropriate money from the general fund for the support of public education. In my estimation, public education could receive more attention and understanding from a legislature not handicapped by earmarking. We have not asserted the leadership in this vexing problem as the citizens of Michigan could and should expect of their constitutional convention delegates.

Following is explanation of vote submitted by Messrs. Austin, Bradley, Follo, Ford, Sablich, Norris, Nord, Douglas, Bledsoe, Downs, Youngblood, Young, Madar, Stopczynski, Baginski, Binkowski, Faxon, Walker, Jones, Mrs. Hatcher and Mrs. Daisy Elliott:

We have been compelled to vote no on article IX because we believe the convention dissipated a grand opportunity to provide the framework for an improved tax structure and true fiscal reform for the state of Michigan.

Admittedly there are many of the changes in the article that are highly desirable and represent substantial improvement in the present document. Such changes include removal of the prohibition on taxation by reference to other legislation, relaxation of the so called 15 mill limitation, raising of the debt limit for borrowing for current purposes, refunding of the Mackinac bridge authority bond issue, recognition of the obligations in connection with pension requirements for public employees, relaxation of restrictions on investment of pension and other trust funds, and general updating of the language and style of the article in the present constitution.

Much of the good work of the convention has been offset by a refusal of the majority to recognize the need for relaxing restrictions on taxing powers of the legislature and local units of government. Indeed, some of the provisions written into the new document amount to further restriction of taxing powers.

There has been included a provision requiring that property be assessed for ad valorem taxation at 50 per cent of its value. The present constitution provides for assessment at 100 per cent cash value. Inclusion of the 50 per cent standard

is an unnecessary restriction on the legislature to set limits for such taxation and will do grievous harm to the cities, townships, counties and school districts in the more populous areas. The lost revenue may have to be secured by increases in taxes on homes.

The prohibition of a graduated income tax is also an unnecessary restriction on the power of the legislature to raise sufficient revenues to pay the cost of government. No delegate would advocate that the legislature levy an income tax in any form. This matter should be left entirely to the legislature. However, once the legislature has decided to embark on an income tax program it should have the freedom to levy the tax in any form it desires.

Earmarking of gas and weight taxes for highways has been continued intact. But a portion of the earmarking of taxes for schools has been removed, thereby reducing the minimum base of support for schools. This action on the part of the majority is indefensible.

Throughout its deliberations the convention has failed to respond to the pleas of delegates representing the more populous areas for relaxation of taxing powers at state and local levels. Additional revenues are needed because the present sources, particularly the property tax, have proved inadequate for present needs.

It is with deep regret that we feel compelled, therefore, to vote against the new article IX.

Following is explanation of vote submitted by Mrs. Cushman:

While there are a number of improvements in article IX, the complete article does not, in my opinion, form the basis for an adequate system of financing the state of Michigan.

I object especially to the continuation of earmarking a great share of the state's revenues, the rigidity of a 50 per cent assessment level restriction, the modified 15 mill limitation, and prohibition of a graduated rate income tax.

I am pleased with the continuation of protection for school bond issues, relaxation of the debt limit, and, in the local government article, the strengthened tax powers of cities.

On the whole, however, the weaknesses of article IX overbalance the strengths.

VICE PRESIDENT HUTCHINSON (continuing): The Chair recognizes Mr. McAllister.

MR. McALLISTER: Mr. President, I would like to make a few remarks. This morning when we gave credit and recognition to the staff, attention was directed primarily to the gallery rather than to the control tower. At this time, on my own behalf — and I am taking the liberty to do so on behalf of the other delegates — I would like to compliment the podium staff for their having so ably surrounded and kept Mr. Chase in good humor and for having worked so diligently around the clock to make a record of this convention and get the journal out on time. I understand that many of these people have worked as late as 3:00 or 4:00 o'clock in the morning on occasions and then have got back here at 8:30 or a quarter to 9:00. I believe we should give these folks a rising vote of thanks for their part in this convention.

[Whereupon, the delegates accorded the secretary's staff at the rostrum a standing ovation.]

VICE PRESIDENT HUTCHINSON: If it weren't for the secretary's staff, I am sure that this convention couldn't operate at all. Mr. Marshall.

MR. MARSHALL: Mr. President and fellow delegates, I think while we are commending all of the staff — and I am in complete accord with that — I think we ought to find out between now and Friday who did the least talking and I can assure you it will not be me, but we ought to find out who did the least talking in this convention and all of us give him a standing ovation on Friday. (laughter)

VICE PRESIDENT HUTCHINSON: Third reading. The secretary will read article XI.

SECRETARY CHASE: Article XI, public officers and employment.

[Article XI, sections 1 through 15, was read by the secretary. For text, see above, page 3070.]

VICE PRESIDENT HUTCHINSON: Article XI has been read a third time. The question being upon the passage of the article, the secretary will report the first amendment.

SECRETARY CHASE: Messrs. King, Martin, Durst and Wanger offer the following amendment:

1. Amend article XI, section 8 (column 1, line 7) after "budget," by striking out the balance of the section and inserting "The legislature is not required to appropriate additional funds to meet the cost of such increases if in its judgment they should be met by a reduction in force or other economies by the various state agencies."

MR. VAN DUSEN: Mr. President

VICE PRESIDENT HUTCHINSON: Mr. Van Dusen.

MR. VAN DUSEN: I move to limit debate on this amendment to 10 minutes.

VICE PRESIDENT HUTCHINSON: On the motion to limit debate upon this amendment to 10 minutes, those in favor will say aye. Opposed, no. That was kind of a weak support. All those in favor will say aye. The opposed will say no.

The motion prevails. Debate is so limited.

MR. HATCH: Mr. President.

VICE PRESIDENT HUTCHINSON: Mr. Hatch.

MR. HATCH: I rise to a point of order, Mr. President.

VICE PRESIDENT HUTCHINSON: State the point.

MR. HATCH: On April 25, in Journal 128 on page 1119, the convention, on second reading, adopted the amendment which presently appears in section 8. I call the Chair's attention to section 398, paragraph one, of Mason's rules which provide that, "An amendment, once adopted, may not thereafter be changed or modified, except by reconsideration of the vote by which it was adopted." I therefore make the point that this amendment does change and modify an amendment previously adopted and that the amendment is not in order.

VICE PRESIDENT HUTCHINSON: Do you wish to speak to the point, Mr. King?

MR. KING: Yes, I do. Mr. President and fellow delegates, it would seem as though we have extended the wisdom of Mr. Mason to the stretching point — to the breaking point perhaps. First of all I would point out — and I am sure that all of us are well aware of that fact — that this is a constitutional convention. The very reason for having 3 separate and distinct readings of these proposals is to provide an opportunity to go back and look over what we have done on prior readings, to view the whole constitution in its proper context, perhaps even to subject ourselves to public opinion and perhaps revise our thinking on certain subjects. Surely, if we should accept this as a controlling rule upon this body, it might well be a good idea to move to suspend third reading, for what point is there in third reading? It seems perfectly obvious to me that if the rule has any effect at all — and I seriously question whether it does; but if it has any effect at all, it certainly wouldn't carry over from one reading to another reading.

VICE PRESIDENT HUTCHINSON: Mr. Wanger, do you desire to speak on the point?

MR. WANGER: I do, Mr. President. I would like to first point out that nowhere in the section cited is the categorical statement that it applies to all readings, from one reading to the next. Secondly, I would like to point out that it has obviously been the custom of this convention, the usage of this convention, to disregard this section up until today when some delegates, because of personal motives in connection with amendments which they themselves originally sponsored, now desire to prevent the convention from having any opportunity to consider whether or not those amendments should be modified.

I suggest that under section 39 of Mason's Manual entitled, Precedents and Usages, the precedents which we have adopted in this regard and the usage of the convention in this regard clearly take precedence over any alleged effect that section 398 might have when raised at this very, very late date in the constitutional convention.

Paragraph 4, for example, of section 39 says, "A not inconsiderable part of parliamentary law is based upon the established

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 | 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

trict in the city with which it is combined, if provided by ordinance of the city. The district or districts with which the territory shall be combined shall be determined by such ordinance certified to the secretary of state. No such change in the boundaries of a representative or senatorial district shall have the effect of removing a legislator from office during his term.

Sec. 5. Island areas are considered to be contiguous by land to the county of which they are a part.

Sec. 6. A commission on legislative apportionment is hereby established consisting of eight persons, four of whom shall be selected by the state organizations of each of the two political parties whose candidates for governor received the highest vote at the last general election at which a governor was elected preceding each apportionment. If a candidate for governor of a third political party has received at such election more than 25 percent of such gubernatorial vote, the commission shall consist of 12 members, four of whom shall be selected by the state organization of the third political party. One member of the commission shall be selected by each political party organization from each of the following four regions: (1) The upper peninsula; (2) The northern part of the lower peninsula, north of a line drawn along the northern boundaries of the counties of Bay, Midland, Isabella, Mecosta, Newaygo and Oceana; (3) Southwestern Michigan, those counties south of region (2) and west of a line drawn along the western boundaries of the counties of Bay, Saginaw, Shiawassee, Ingham, Jackson and Hillsdale; (4) Southeastern Michigan, the remaining counties of the state.

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

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

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

carry out its activities.

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

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

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

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

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

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

Sec. 9. No person elected to the legislature shall receive any civil appointment within this

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

shall be deposited in any bank in excess of 50 percent of the capital and surplus of such bank. Any bank receiving deposits of state money shall show the amount of state money so deposited as a separate item in all published statements.

Sec. 21. The legislature shall provide by law for the annual accounting for all public moneys, state and local, and may provide by law for interim accounting.

The legislature shall provide by law for the maintenance of uniform accounting systems by units of local government and the auditing of county accounts by competent state authority and other units of government as provided by law.

Sec. 22. Procedures for the examination and adjustment of claims against the state shall be prescribed by law.

Sec. 23. All financial records, accountings, audit reports and other reports of public moneys shall be public records and open to inspection. A statement of all revenues and expenditures of public moneys shall be published and distributed annually, as provided by law.

Sec. 24. The accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired thereby.

Financial benefits arising on account of service rendered in each fiscal year shall be funded during that year and such funding shall not be used for financing unfunded accrued liabilities.

Article X Property

Sec. 1. The disabilities of coverture as to property are abolished. The real and personal estate of every woman acquired before marriage and all real and personal property to which she may afterwards become entitled shall be and remain the estate and property of such woman, and shall not be liable for the debts, obligations or engagements of her husband, and may be dealt with and disposed of by her as if she were unmarried. Dower may be relinquished or conveyed as provided by law.

Sec. 2. Private property shall not be taken for public use without just compensation therefor being first made or secured in a manner prescribed by law. The amount of compensation shall be determined in proceedings in a court of record.

Sec. 3. A homestead in the amount of not less than \$3,500 and personal property of every resident of this state in the amount of not less than \$750, as defined by law, shall be exempt from forced sale on execution or other process of any court. Such exemptions shall not extend to any lien thereon excluded from exemption by law.

Sec. 4. Procedures relating to escheats and to the custody and disposition of escheated property

shall be prescribed by law.

Sec. 5. The legislature shall have general supervisory jurisdiction over all state owned lands useful for forest preserves, game areas and recreational purposes; shall require annual reports as to such lands from all departments having supervision or control thereof; and shall by general law provide for the sale, lease or other disposition of such lands.

The legislature by an act adopted by two-thirds of the members elected to and serving in each house may designate any part of such lands as a state land reserve. No lands in the state land reserve may be removed from the reserve, sold, leased or otherwise disposed of except by an act of the legislature.

Sec. 6. Aliens who are residents of this state shall enjoy the same rights and privileges in property as citizens of this state.

Article XI

Public Officers and Employment

Sec. 1. All officers, legislative, executive and judicial, before entering upon the duties of their respective offices, shall take and subscribe the following oath or affirmation: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the constitution of this state, and that I will faithfully discharge the duties of the office of according to the best of my ability. No other oath, affirmation, or any religious test shall be required as a qualification for any office or public trust.

Sec. 2. The terms of office of elective state officers, members of the legislature and justices and judges of courts of record shall begin at twelve o'clock noon on the first day of January next succeeding their election, except as otherwise provided in this constitution. The terms of office of county officers shall begin on the first day of January next succeeding their election, except as otherwise provided by law.

Sec. 3. Neither the legislature nor any political subdivision of this state shall grant or authorize extra compensation to any public officer, agent or contractor after the service has been rendered or the contract entered into.

Sec. 4. No person having custody or control of public moneys shall be a member of the legislature, or be eligible to any office of trust or profit under this state, until he shall have made an accounting, as provided by law, of all sums for which he may be liable.

Sec. 5. The classified state civil service shall consist of all positions in the state service except those filled by popular election, heads of principal departments, members of boards and commissions, the principal executive officer of boards and commissions heading principal departments, employees of courts of record, employees of the legis-

lature, employees of the state institutions of higher education, all persons in the armed forces of the state, eight exempt positions in the office of the governor, and within each principal department, when requested by the department head, two other exempt positions, one of which shall be policy-making. The civil service commission may exempt three additional positions of a policy-making nature within each principal department.

The civil service commission shall be non-salaried and shall consist of four persons, not more than two of whom shall be members of the same political party, appointed by the governor for terms of eight years, no two of which shall expire in the same year.

The administration of the commission's powers shall be vested in a state personnel director who shall be a member of the classified service and who shall be responsible to and selected by the commission after open competitive examination.

The commission shall classify all positions in the classified service according to their respective duties and responsibilities, fix rates of compensation for all classes of positions, approve or disapprove disbursements for all personal services, determine by competitive examination and performance exclusively on the basis of merit, efficiency and fitness the qualifications of all candidates for positions in the classified service, make rules and regulations covering all personnel transactions, and regulate all conditions of employment in the classified service.

No person shall be appointed to or promoted in the classified service who has not been certified by the commission as qualified for such appointment or promotion. No appointments, promotions, demotions or removals in the classified service shall be made for religious, racial or partisan considerations.

Increases in rates of compensation authorized by the commission may be effective only at the start of a fiscal year and shall require prior notice to the governor, who shall transmit such increases to the legislature as part of his budget. The legislature may, by a majority vote of the members elected to and serving in each house, waive the notice and permit increases in rates of compensation to be effective at a time other than the start of a fiscal year. Within 60 calendar days following such transmission, the legislature may, by a two-thirds vote of the members elected to and serving in each house, reject or reduce increases in rates of compensation authorized by the commission. Any reduction ordered by the legislature shall apply uniformly to all classes of employees affected by the increases and shall not adjust pay differentials already established by the civil service commission. The legislature may not reduce rates of compensation below those in effect at the time of the transmission of increases author-

ized by the commission.

The appointing authorities may create or abolish positions for reasons of administrative efficiency without the approval of the commission. Positions shall not be created nor abolished except for reasons of administrative efficiency. Any employee considering himself aggrieved by the abolition of a position shall have a right of appeal to the commission through established grievance procedures.

The civil service commission shall recommend to the governor and to the legislature rates of compensation for all appointed positions within the executive department not a part of the classified service.

To enable the commission to exercise its powers, the legislature shall appropriate to the commission for the ensuing fiscal year a sum not less than one percent of the aggregate payroll of the classified service for the preceding fiscal year, as certified by the commission. Within six months after the conclusion of each fiscal year the commission shall return to the state treasury all moneys unexpended for that fiscal year.

The commission shall furnish reports of expenditures, at least annually, to the governor and the legislature and shall be subject to annual audit as provided by law.

No payment for personal services shall be made or authorized until the provisions of this constitution pertaining to civil service have been complied with in every particular. Violation of any of the provisions hereof may be restrained or observance compelled by injunctive or mandamus proceedings brought by any citizen of the state.

Sec. 6. By ordinance or resolution of its governing body which shall not take effect until approved by a majority of the electors voting thereon, unless otherwise provided by charter, each county, township, city, village, school district and other governmental unit or authority may establish, modify or discontinue a merit system for its employees other than teachers under contract or tenure. The state civil service commission may on request furnish technical services to any such unit on a reimbursable basis.

Sec. 7. The house of representatives shall have the sole power of impeaching civil officers for corrupt conduct in office or for crimes or misdemeanors, but a majority of the members elected and serving shall be necessary to direct an impeachment.

When an impeachment is directed, the house of representatives shall elect three of its members to prosecute the impeachment.

Every impeachment shall be tried by the senate immediately after the final adjournment of the legislature. The senators shall take an oath or affirmation truly and impartially to try and determine the impeachment according to the evi-

1 dence. When the governor or lieutenant governor
2 is tried, the chief justice of the supreme court
3 shall preside.

4 No person shall be convicted without the con-
5 currence of two-thirds of the senators elected and
6 serving. Judgment in case of conviction shall not
7 extend further than removal from office, but the
8 person convicted shall be liable to punishment
9 according to law.

10 No judicial officer shall exercise any of the
11 functions of his office after an impeachment is
12 directed until he is acquitted.

Article XII

Amendment & Revision

14 Sec. 1. Amendments to this constitution may
15 be proposed in the senate or house of representa-
16 tives. Proposed amendments agreed to by two-
17 thirds of the members elected to and serving in
18 each house on a vote with the names and vote of
19 those voting entered in the respective journals
20 shall be submitted, not less than 60 days there-
21 after, to the electors at the next general election
22 or special election as the legislature shall direct.
23 If a majority of electors voting on a proposed
24 amendment approve the same, it shall become
25 part of the constitution and shall abrogate or
26 amend existing provisions of the constitution at
27 the end of 45 days after the date of the election
28 at which it was approved.

29 Sec. 2. Amendments may be proposed to this
30 constitution by petition of the registered electors
31 of this state. Every petition shall include the full
32 text of the proposed amendment, and be signed by
33 registered electors of the state equal in number to
34 at least 10 percent of the total vote cast for
35 all candidates for governor at the last preceding
36 general election at which a governor was elected.
37 Such petitions shall be filed with the person au-
38 thorized by law to receive the same at least 120
39 days before the election at which the proposed
40 amendment is to be voted upon. Any such petition
41 shall be in the form, and shall be signed and
42 circulated in such manner, as prescribed by law.
43 The person authorized by law to receive such peti-
44 tion shall upon its receipt determine, as provided
45 by law, the validity and sufficiency of the signa-
46 tures on the petition, and make an official an-
47 nouncement thereof at least 60 days prior to the
48 election at which the proposed amendment is to be
49 voted upon.

50 Any amendment proposed by such petition shall
51 be submitted, not less than 120 days after it was
52 filed, to the electors at the next general election.
53 Such proposed amendment, existing provisions of
54 the constitution which would be altered or abro-
55 gated thereby, and the question as it shall appear
56 on the ballot shall be published in full as provided
57 by law. Copies of such publication shall be posted
58 in each polling place and furnished to news media

as provided by law.

59 The ballot to be used in such election shall con-
60 tain a statement of the purpose of the proposed
61 amendment, expressed in not more than 100 words,
62 exclusive of caption. Such statement of purpose
63 and caption shall be prepared by the person au-
64 thorized by law, and shall consist of a true and
65 impartial statement of the purpose of the amend-
66 ment in such language as shall create no prejudice
67 for or against the proposed amendment.

68 If the proposed amendment is approved by a
69 majority of the electors voting on the question,
70 it shall become part of the constitution, and
71 shall abrogate or amend existing provisions of
72 the constitution at the end of 45 days after
73 the date of the election at which it was ap-
74 proved. If two or more amendments approved by
75 the electors at the same election conflict, that
76 amendment receiving the highest affirmative vote
77 shall prevail.

78 Sec. 3. At the general election to be held in
79 the year 1978, and in each 16th year thereafter
80 and at such times as may be provided by law, the
81 question of a general revision of the constitution
82 shall be submitted to the electors of the state. If
83 a majority of the electors voting on the question
84 decide in favor of a convention for such purpose,
85 at an election to be held not later than six months
86 after the proposal was certified as approved, the
87 electors of each representative district as then
88 organized shall elect one delegate and the elec-
89 tors of each senatorial district as then organized
90 shall elect one delegate at a partisan election.
91 The delegates so elected shall convene at the seat
92 of government on the first Tuesday in October
93 next succeeding such election or at an earlier date
94 if provided by law.

95 The convention shall choose its own officers,
96 determine the rules of its proceedings and judge
97 the qualifications, elections and returns of its mem-
98 bers. The governor shall appoint a qualified
99 resident of the same district to fill a vacancy
100 in the office of any delegate who shall be a mem-
101 ber of the same party as the delegate vacating
102 the office. The convention shall have power to ap-
103 point such officers, employees and assistants as
104 it deems necessary and to fix their compensation;
105 to provide for the printing and distribution of its
106 documents, journals and proceedings; to explain
107 and disseminate information about the proposed
108 constitution and to complete the business of the
109 convention in an orderly manner. Each delegate
110 shall receive for his services compensation pro-
111 vided by law.

112 No proposed constitution or amendment adopted
113 by such convention shall be submitted to the
114 electors for approval as hereinafter provided un-
115 less by the assent of a majority of all the delegates
116 elected to and serving in the convention, with the
117 names and vote of those voting entered in the

journal. Any proposed constitution or amendments adopted by such convention shall be submitted to the qualified electors in the manner and at the time provided by such convention not less than 90 days after final adjournment of the convention. Upon the approval of such constitution or amendments by a majority of the qualified electors voting thereon the constitution or amendments shall take effect as provided by the convention.

Schedule and Temporary Provisions

To insure the orderly transition from the constitution of 1908 to this constitution the following schedule and temporary provisions are set forth to be effective for such period as are thereby required.

Sec. 1. The attorney general shall recommend to the legislature as soon as practicable such changes as may be necessary to adapt existing laws to this constitution.

Sec. 2. All writs, actions, suits, proceedings, civil or criminal liabilities, prosecutions, judgments, sentences, orders, decrees, appeals, causes of action, contracts, claims, demands, titles and rights existing on the effective date of this constitution shall continue unaffected except as modified in accordance with the provisions of this constitution.

Sec. 3. Except as otherwise provided in this constitution, all officers filling any office by election or appointment shall continue to exercise their powers and duties until their offices shall have been abolished or their successors selected and qualified in accordance with this constitution or the laws enacted pursuant thereto.

No provision of this constitution, or of law or of executive order authorized by this constitution shall shorten the term of any person elected to state office at a statewide election on or prior to the date on which this constitution is submitted to a vote. In the event the duties of any such officers shall not have been abolished or incorporated into one or more of the principal departments at the expiration of his term, such officer shall continue to serve until his duties are so incorporated or abolished.

Sec. 4. All officers elected at the same election that this constitution is submitted to the people for adoption shall take office and complete the term to which they were elected under the 1908 constitution and existing laws and continue to serve until their successors are elected and qualified pursuant to this constitution or law.

Sec. 5. Notwithstanding any other provision in this constitution, the governor, the lieutenant governor, the secretary of state, the attorney general, and state senators shall be elected at the general election in 1964 to serve for two year terms beginning on the first day of January next

succeeding their election. The first election of such officers for four-year terms under this constitution shall be held at the general election in 1966.

Sec. 6. The state shall be districted for the purpose of electing senators in accordance with the provisions of Section 2 of Article IV of this constitution, after the official publication of the total population count of the 1970 decennial federal census. Until the apportionment of the senate following the 1970 census, the senatorial districts under the 1908 constitution shall remain intact except that upon the adoption of this constitution each of the counties of Kent, Genesee, Macomb and Oakland shall be divide by the apportionment commission into two senatorial districts and Wayne county into eight senatorial districts in accordance with this constitution. The legislature may give prior effect to Section 2 of Article IV of this constitution, which action shall not be subject to veto by the governor.

Sec. 7. Notwithstanding the provisions of this constitution that the supreme court shall consist of seven justices it shall consist of eight justices until the time that a vacancy occurs as a result of death, retirement or resignation of a justice. The first such vacancy shall not be filled.

Sec. 8. Any judge of probate serving on the effective date of this constitution may serve the remainder of the term and be eligible to succeed himself for election regardless of other provisions in this constitution requiring him to be licensed to practice law in this state.

Sec. 9. The provisions of Article VI providing that terms of judicial offices shall not all expire at the same time, shall be implemented by law providing that at the next election for such offices judges shall be elected for terms of varying length, none of which shall be shorter than the regular term provided for the office.

Sec. 10. The members of the state board of education provided for in Section 3 of Article VIII of this constitution shall first be elected at the first general election after the effective date of this constitution for the following terms: two shall be elected for two years, two for four years, two for six years, and two for eight years as prescribed by law.

The State Board of Education provided for in the constitution of 1908 is abolished at twelve o'clock noon January 1 of the year following the first general election under this constitution and the terms of members thereof shall then expire.

Sec. 11. The provisions of this constitution providing for members of boards of control of institutions of higher education and the State Board of Public Community and Junior Colleges shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be

extended, and may further provide that the initial terms of office of members may be less than eight years.

Sec. 12. The provisions of this constitution increasing the number of members of the Board of Trustees of Michigan State University and of the Board of Governors of Wayne State University to eight, and of their term of office to eight years, shall be implemented by law. The law may provide that the term of each member in office on the date of the vote on this constitution may be extended one year, and may further provide that the initial terms of office of the additional members may be less than eight years.

Sec. 13. The initial allocation of departments by law pursuant to Section 2 of Article V of this constitution, shall be completed within two years after the effective date of this constitution. If such allocation shall not have been completed within such period, the governor, within one year thereafter, by executive order, shall make the initial allocation.

Sec. 14. Contractual obligations of the state incurred pursuant to the constitution of 1908 shall continue to be obligations of the state.

For the retirement of notes and bonds issued under Section 26 of Article X of the 1908 constitution, there is hereby appropriated from the general fund each year during their life a sum equal to the amount of principal and interest payments due and payable in each year.

Sec. 15. The legislature by a vote of two-thirds of the members elected to and serving in each house may provide that the state may bor-

row money and may pledge its full faith and credit for refunding any bonds issued by the Mackinac Bridge Authority and at the time of refunding the Mackinac Bridge Authority shall be abolished and the operation of the bridge shall be assumed by the state highway department. The legislature may implement this section by law.

Sec. 16. This constitution shall be submitted to the people for their adoption or rejection at the general election to be held on the Tuesday after the first Monday of November, 1962. It shall be the duty of the secretary of state forthwith to give notice of such submission to all other officers required to give or publish any notice in regard to a general election. He shall give notice that this constitution will be duly submitted to the electors at such election. The notice shall be given in the manner required for the election of governor.

Sec. 17. Every registered elector may vote on the adoption of the constitution. The board of election commissioners in each county shall cause to be printed on a ballot separate from the ballot containing the names of the nominees for office, the words: Shall the revised constitution be adopted? () Yes. () No. All votes cast at the election shall be taken, counted, canvassed and returned as provided by law for the election of state officers. If the revised constitution so submitted receives more votes in its favor than were cast against it, it shall be the supreme law of the state on and after the first day of January of the year following its adoption.

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
Bowens	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.

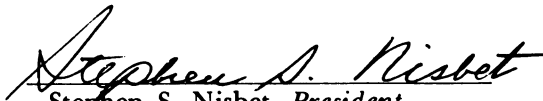
Sec. 14. The legislature by a vote of two-thirds of the members elected to and serving in each house may provide that the state may borrow money and may pledge its full faith and credit for refunding any bonds issued by the Mackinac Bridge Authority and at the time of refunding the Mackinac Bridge Authority 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]

***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

The section authorizes the legislature, as does the present constitution, to subject all utilities, and such other businesses as the legislature may designate, to state assessment. It does not require the legislature to do so, however, because the disruption to the tax base of local communities which for over 50 years have been locally taxing electric and gas utilities, for example, would be too great.

Uniformity in the method of utility taxation is facilitated by authorizing such taxation at the average rate of the area in which the property is located, rather than the average state rate.

Limits on ad valorem taxes.

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.

This is a revision of Sec. 21, Article X, of the present constitution which continues in substance the 15-mill limit on property taxes. Statutory county tax allocation boards would be continued as the agencies charged with allocation of the 15 mills among the local units in the county. However, the section does permit the legislature to authorize initiative procedure within a county which would allow a majority of the qualified electors voting thereon to adopt a fixed division of millage among a county, its townships and school districts, the total of which shall not exceed 18 mills. This fixed division and limit voted by the electors would stand until such time as they

change it in another vote. This is simply a "local option" provision which can never be effective without authorization of a majority of the electors in the county affected.

The section continues present provisions which permit the electors of any taxing district to vote additional millage, subject to the present 20-year limit and over-all 50-mill limit. Cities and villages are excepted, as at present, from the 15-mill limit. The exception is also extended to charter townships, and charter counties organized under the terms of this new document. Such units would be subject only to limitations established in their charters or by law.

All bond issues of local units of government will have unlimited tax support.

All electors may vote on millage increases up to and including 5 years for general purposes, but only property owners and their spouses may vote on property tax increase proposals which extend for more than 5 years. Saving provisions are incorporated in the section to protect present voted millage and outstanding bonds.

The final sentence, dealing with multi-county school districts, is intended to answer a problem involving 60 counties of this state. It provides that in any school district which crosses county lines, the tax limitation shall be that applicable in the portion of the school district situated in the county containing the largest portion of the school district.

No graduated income tax.

Sec. 7. *No income tax graduated as to rate or base shall be imposed by the state or any of its subdivisions.*

This is a new section making it clear that neither the state nor any local unit of government may impose a graduated income tax. The words "or base" are necessary to prevent "piggyback" taxation based on the federal tax liability. Without such language, a tax nominally imposed at a flat rate might actually adopt all of the graduation of the federal tax.

A flat rate income tax is clearly permitted, and could be imposed on a "piggyback" basis on income computed for federal tax purposes. The legislature could prescribe reasonable exemptions for a flat rate tax.

Sales tax limit.

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.*

This is a revision of a part of Sec. 23, Article X, of the present constitution.

Gasoline and motor vehicle taxes; use; exceptions.

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. *****