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## ABSTRACT

### A COMPARATIVE ANALYSIS OF PARTISANSHIP IN FIVE STATE CONSTITUTIONAL CONVENTIONS

by William N. Thompson

Among governmental decision-making bodies, state constitutional conventions are unique. Conventions are rarely called into existence. They are not on-going bodies, rather, they cease to function once their decision-making task has been completed. Also, they are not subject to the normal checks and balances with which other branches of government must contend. As unique political entities, the existence of a convention will present a basic problem to the on-going political party organizations of a state. That problem turns about the question of what role shall the political party play in the convention. In the 1961-1962 Michigan Constitutional Convention, the convention upon which I place emphasis in this study, it appeared early that the decision-makers--the delegates--were going to deemphasize their political party affiliations in their deliberations. However, as the delegates progressed in their work, partisanship became a major force in the deliberations. In this study I have explained the factors which precipitated the advance of partisanship into the Michigan Convention. My approach has been comparative. Four other state conventions--New York (1938), Missouri (1944-5), New Jersey (1947), and Tennessee (1953)--

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were examined. I hypothesized that party values will become prominent in a state constitutional convention as party interests are threatened. Twenty-eight corollaries to the hypothesis are presented under six headings--events encompassing the creation of the convention, preparations for the convention, general political environment of the convention, the delegate selection system, the delegate selection process, and the delegates selected. Data has been gathered from many sources. Convention journals provide a bulk of the information on partisanship at the conventions. Newspaper accounts were also utilized. The pertinent literature pertaining to conventions was limited to several articles written by delegates and "good government" observers, and two volumes--on the New York and Michigan conventions--compiled by political scientists. Other works were helpful in selecting data to test the corollaries. I was aided in my presentation of the Michigan case by several personal interviews and by being a personal observer of the convention. I conclude that the data reflects the general validity of the hypothesis. I find that partisanship was not a prominent force early in the Michigan Convention, because the convention came into being as a result of a "good government" interest group campaign. A large number of candidates sought election to the convention, and the majority party held an overwhelming majority of the delegate seats. Also, the convention started during a year in which there were no major statewide elections. Forces precipitating the rise of partisanship in the convention were isolated, and they included the fact that Michigan is politically an extremely

competitive state, that political parties had generally withheld support for having a convention, that the electorate did not give an overwhelming majority vote to the proposition of holding a convention, and that the convention had unlimited substantive decision-making powers. Also, the size of the Michigan convention facilitated the advent of a partisan convention. Political parties were very active in the delegate election races, but the electorate did not actively participate. A major factor in the accentuation of party values in the convention was that the convention did not adjourn until statewide election campaigns had begun. Several of the delegates were candidates.

A COMPARATIVE ANALYSIS OF PARTISANSHIP IN FIVE  
STATE CONSTITUTIONAL CONVENTIONS

By

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## CHAPTER ONE

### INTRODUCTION: PROBLEM AND CASES STUDIED

State constitutional conventions are unique among public policy making bodies in America in that they are called together for a single purpose and disband, when they have completed their task, never to meet again. They are generally responsible only to the electorate that must ratify the document they create.

Since 1930, eighteen state or territorial conventions have been held. Most recently, the State of Michigan has called a convention to rewrite its constitution. My thesis focuses attention on this convention. Partisan political values were not dominant in the early stages of the Michigan Convention of 1961-2. However, as the work of the Convention progressed, political partisanship became an increasingly important factor in the decision making. To find the reasons explaining the evolution of partisanship in Michigan's Convention, I examined the other seventeen conventions. I reasoned that an examination of Michigan State Legislature would not be as helpful. Legislators as members of an ongoing political body must constantly be conscious of defending the interests of the political parties upon which they depend for the continuance of their public careers. Executive commissions and committees whether temporary or ongoing

lack the potential authority of the Convention as well as the bonds the convention has with the electorate. City charter commissions probably more closely resemble the convention than other political bodies. Like the Convention, the charter commissions have but one task--the formulation of a basic law- and they have but one supreme authority- the electorate. However, Michigan city charter commissioners are not usually selected on a partisan ballot as are constitutional convention delegates. And political party activity is much more limited at the municipal level where governments are apt to be either non-partisan or one-party governments.

By comparing the Michigan Constitutional Convention with other political bodies, I found that too many variables were beyond control when the other political bodies were not also constitutional conventions. However, not all of the seventeen recent conventions could be of aid to my study. I felt that I could learn very little relevant to the Michigan Convention by studying the conventions in Hawaii (1950), Puerto Rico (1954), and Alaska (1955-6). None of the three had constitutions at the time of the conventions, nor were they states at the time of their conventions. The desire for statehood in Hawaii and Alaska, and for commonwealth status in Puerto Rico probably blurred partisan lines and subdued them to this common purpose. Where party lines appeared, the factors explaining the appearance would be subjected to this overriding motivation for changing political status. Ten of the remaining

fourteen conventions were not called to make extensive revisions of their states' constitutions. Four of the ten were held in New Hampshire (1930, 1938, 1948, and 1956) where the convention process was the only way in which amendments to the constitution could be proposed. None of the four conventions undertook extensive revision of the state's basic document. Conventions made only limited revisions in Rhode Island (1944, 1951, and 1955), Virginia (1944, and 1956) and in Tennessee (1959). The work of these conventions was too limited and the duration of their meetings too short to gain much significant information pertaining to partisanship among convention delegations.

However, New York (1938), Missouri (1943-4), New Jersey (1947) and Tennessee (1953) each had conventions that proposed major revisions to their constitutions. Each of these conventions met for a duration of time enabling me to look at their histories and gain an insight into the development of partisanship at the Michigan Convention.

These four, plus the Michigan Convention, were all partisan conventions in that an overwhelming majority of the delegates in each convention (all of the delegates in three of the conventions) outwardly affirmed their affiliation to a political party. In only one convention were delegates elected without party identifications appearing on the ballots. However, all but three of the delegates to that convention announced their political party affiliation.

All delegates belong to organized groups of one sort or another.



Some of the group affiliations are very relevant to convention activity. Others are not. Political party organizations would, I assume, have a high degree of interest in a convention when matters affecting it are decided. In my thesis I am concerned with only one group--the political party. How that group behaved in relation to the convention activity is the central variable in the thesis.

## CHAPTER TWO

### CONCEPTUAL FRAMEWORK

The central hypothesis is that:

Party values will become prominent in a state constitutional convention as party interests are threatened.

The many definitions of party interest parallel the many functions a party performs--for example, selecting and nominating official government personnel, formulating public policy, and coordinating activities of the several branches of government. Thus, the party interest concept may be defined somewhat differently by individuals within the same political party. Governor, congressman, national committeeman, state chairman, other party officials, and constitutional convention delegate may all perceive their party's interest in different terms. Likewise, the definition of party interest may be different in different states. In some states or by some political actors the interest of a party may be seen as a social or economic philosophy (ideological). In other situations, the party interest may be regarded as the successful implementation of a specific legislative program. Also, administrative values such as government economy and efficiency may provide a central basis for defining the concept for some. Specific stands on issues such as taxation or labor-management relations may in some states be so closely identified with party leaders as to be defined by some as party interests. As the labor-management conflict affects large and powerful interest groups, a relationship between the groups' interests and the party interest can often be observed. But these relationships between party and interest group are not constant in time nor do they hold constant from state to state.

In American politics, ideology can only with difficulty be related to the widespread conceptions of the party interest. Rather, party members are most commonly united on control of office. (Indeed, sometimes the only completely party line vote in a legislative session is the election of the presiding officer). It is this party function--selecting and nominating official government personnel--that thus provides the thread of continuity for the many conceptualizations of the party interest. In all states parties are identifiable as "organized attempts" to control the government by

winning elective offices.<sup>1</sup> As employed in this thesis, the party interest is the securing and holding of positions of control within the formal governmental structure. All other considerations of the concept are subordinated to this image of party interest. But even with this definition one must recognize that there will be conflicts within a party over what the party interest is. A gubernatorial candidate and a legislator may differ over the effects of apportionment on the party interest. A state treasurer and a governor may differ over the value to the party of making the treasurer's office appointive. Also, in a one-party state factions may clash violently over such differences. But, internal party conflicts are deemphasized in this thesis. Party interests are generally perceived as the interests of a state party as a unitary group.

A constitutional convention may threaten party interests in important ways. If a convention is capable of changing the means whereby candidates are selected, then a threat to a party may exist. If a convention is capable of being used by candidates to create campaign issues, a threat to a party exists. One party's ability to seize an opportunity to satisfy its interests represents a threat to the opposite party. Such a threat is particularly important since the state's basic law is being written. As these opportunities and threats come to be perceived as actual and present, the members of a constitutional convention will give party values prominence in convention deliberations.

The first assumption is that circumstances preceeding and surrounding the deliberations of the convention will contribute to whether or not party interests will become threatened by convention activities.

R. The events encompassing the creation of a convention which tend to indicate that party interests will not be threatened by the convention, hence party values will not enjoy prominence at the convention, are:

- R-1. The question of calling the convention was submitted to the electorate by legislative action.
- R-2. The question of calling the convention did not appear on the ballot automatically due to a constitutional mechanism established years in advance of the calling.
- R-3. The major political parties supported the calling of a convention.

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<sup>1</sup>Joseph A. Schlesinger, "Political Party Organization" (Department of Political Science, Michigan State University, November, 1962), p. 1. (Mimeo.)

The legislative process is oriented toward party values. It is also very difficult to successfully traverse. Constitutional conventions are a rare phenomena in the typical state. Predicting the political effects of having a convention is in most instances difficult. There are many risks faced by the legislature that considers whether or not to submit to the voters the question of calling a convention. Even a public vote against having a convention may be interpreted as a vote of no-confidence in the legislature. Individual legislators may incur the wrath of their constituents or their local political organization if they help call a convention that may alter vested party or local interests. Therefore, when a legislature helps to call a convention, other forces are usually evident to demonstrate the legislature's "good" intentions and their cognizance of their political well-being. First of all, legislative action is probably prompted by "good government" interest groups that are ready to take the responsibility for constitutional reform. Second, if a legislature helps call a convention, this is an indication that the legislature recognizes that the convention, either because of its powers or its personnel, is not going to threaten vested political interests. For these reasons, I hypothesize that a convention will tend toward a non-party value orientation if it is created by a call initiated by legislative action. However, if the convention came about as a result of having the question of calling the convention appear on the ballot automatically, there need be no support of the convention by political organizations or good government groups in order for it to exist. A convention called in such a manner will be less planned for than a convention whose calling resulted from a concerted effort by party members. As such, the convention would immediately become a threat to party interests. The seed of partisanship would be planted. A recruitment of party oriented delegates might very well follow, with the convention adopting party values as guideposts.

- R-4. Good government groups supported and campaigned vigorously for the convention.

If good government groups vigorously campaign to secure a constitutional convention, they will keep campaigning for their interests once the convention becomes a reality. Good government groups that are highly interested in having a convention will also tend to desire that the personnel of the convention will not be motivated by political party values. It then follows that good government lobbying with its emphasis upon eliminating party motivation from public decision making will accompany convention proceedings. Lobbying for an absence of party-values from governmental proceedings may have a negative

effect upon the acceptance of party values in convention deliberations. The chances are much less that this negative effect would arise if good government groups did not become interested--and demonstrate that interest--in the convention method of constitutional revision at a time prior to the call of the convention. Therefore, I hypothesize that conventions that come into being through the efforts of good government interest groups will reject party values to a greater extent than will conventions with less or no good government interest group support.

- R-5. The public responded favorably to having a convention by voting in large numbers and casting a large majority for the convention.

Large turnouts usually reflect public interest in elections. If party interests stimulate that public interest, the turnouts will be large only if a sufficient doubt about the results is present. If doubt of the results is removed, the public will not respond to party interests by voting in large numbers. Therefore, if a heavy majority vote, cast by a large share of the electorate is observed in calling a convention, the vote probably was the result of a non-party motivated public interest in the convention. If the public displays such an interest in the convention before it deliberates, the interest will not be abandoned with the start of deliberations. The interest will be conveyed to the delegates who, in turn, will place a greater emphasis upon non-party oriented motivations in the course of their work. Conversely, if a lack of public interest accompanies the calling of the convention, the parties may, by default, monopolize the vigilance over the convention.

S. Preparations for the convention will illustrate a greater likelihood that party values are not going to enjoy prominence at the convention if:

- S-1. The Governor of the convention state demonstrated, by official actions, a favorable disposition towards the convention.

The Governor more than any other single individual is able to focus public attention upon the convention. That attention reinforces opportunities for a non-party oriented convention. The Governor, also, more than any other individual has the authority to direct activities which will relieve the convention from having to perform many administrative tasks. In many instances the interjection of party values could accompany the performance of the duties by the convention as non-party

oriented values would not be present at the convention for the purposes of guiding such decisions. However, if the Governor's office decided matters such as providing physical facilities, and guiding research activities, pressure from non-party oriented sources would have a greater access to the decision making entity. Also, actions by the Governor designed to facilitate the functioning of the convention will not be forthcoming unless the Governor recognizes that the convention represents no genuine threat to his party's interests. Where it is not to be expected that the Governor will be outwardly hostile to the convention before it begins-- even if it possesses the potentialities for adversely affecting the interests of his party, it is not here envisioned that the Governor would lend positive aid to a body that would be likely to threaten his party's interests.

- S-2. The Legislature supported the convention with legislation which went beyond merely financing the operation of the convention.

A Legislature will not aid a convention if it feels that political interests were threatened by the convention; therefore, when such aid is given, there will be a greater likelihood that the convention will not be motivated by party values than when such aid is not given. It is an institutional function of the Legislature to financially permit the convention to exist, therefore, in this hypothesis I regard support as aid going beyond subsistence appropriations.

- S-3. Research activity was conducted especially for the benefit of the delegates; and, the activity resulted in the drafting of a substantial body of non-partisan literature.

If the delegates have a body of non-partisan, expertise, research literature to refer to during the course of the convention, they are likely to be influenced, to some degree, by the literature. The delegates as participants in a rare political phenomena, the constitutional convention, will put credence in any non-partisan research activities conducted on their behalf, as convention guideposts will be rare. But an absence of recognized non-partisan literature will turn the delegates to more party oriented sources for support of their convention actions. As delegates endeavor to base actions upon non-party sources, party value orientations will enjoy less prominence at the convention.

T. The chances that party interests will become threatened are accentuated by:

T-1. There being no legal limit upon the substantive scope of the convention's work.

Not all phases of a constitution represent an interest to political parties. For example, provisions for a state militia, education, eminent domain are usually of too great a concern to delegates acting as members of a political party. On the other hand, issues concerning taxation, legislative apportionment, and election of administrative officials quite often represent threats to party interests. These issues are of grave importance in some constitutional conventions. Other conventions are limited to discussing only other matters. I hypothesize that the threats to party interests are greater in those conventions that are not limited in the substantive scope of their revision efforts.

T-2. The conducting of the convention, in the main, during a year of major statewide elections.

Party interests are well defined during election campaigns. The party seeks to win elective offices. If a convention is held during an election year, it is reasonable to expect that the convention will be used by the parties to help satisfy their election interests. The convention has an important task to perform in state government. Political and public attention is focused upon the work of the convention. The convention issues and personalities, as a source of influencing the electorate, will not be passed over by the parties. Therefore, I hypothesize that there will be a greater opportunity for the personnel of a convention to respond to the interests of their political parties during an election year.

T-3. A political atmosphere characterized by intense inter-party rivalries.

In each of the conventions, there were delegates from the two major parties. If a state political scene is characterized by a high degree of competition between the two parties, there will be a greater pay-off, if the convention satisfied party interests. Paramount among the interests of a party is the capturing of elective public office. In a state where one party represents a sufficiently large majority of the electorate that the party has no fear of being defeated in state elections, party

interests tend not to be a prime matter of concern for the delegates of the convention. On the other hand, if the party competition in the state is intense, the parties will always be conscious of any opportunity to satisfy party interests. Not only could conventions be used to construct a governmental structure more favorable to a party, but also to publicize delegates as future candidates. Therefore, greater opportunities to satisfy party interests exist in conventions within states having intense inter-party rivalries.

The second assumption is that when the recruitment process for delegates emphasized partisanship, there will be a greater likelihood that party values will become prominent than when partisanship is not emphasized. The greater likelihood will be accentuated by the more highly pronounced party-value orientation of the delegates selected in the system emphasizing partisanship.

A. The political party value orientation of the delegation will be more pronounced when the rules of the delegate selection process provide for:

A-1. A large number of delegates rather than a smaller number of delegates.

The organization of a large convention is a more difficult task than is the organizing of a smaller convention. The selection of officers, assignment of committees, and operationalizing of strategy are all more complex tasks in the larger conventions. Because the tasks are more complex, I hypothesize that delegates will turn to their fellow party-members, if identifiable, at the convention in order to accomplish the tasks. In turning to the members of their own party, they turn away from the members of the opposition party, and therefore, add to the chances that they will perceive opportunities to satisfy party interests. Also, in the larger convention party interests will be found in the organization of the convention. The parties will have a greater interest in who are selected as convention leaders; also, there will be a greater amount of patronage to hand out.

A-2. Some delegates elected on an at-large basis.

Delegates elected from the convention state on an at-large basis should be leading delegates at the convention by the nature of their having a larger voter constituency. At-large delegates are generally given ranking assignments at the conventions. It is therefore assumed that the election of an



at-large delegate would be a greater satisfaction to a party than would the election of another delegate. State party organizations will have a greater interest in the delegate elections if they must conduct campaigns on a statewide basis. The state organization would be less expected to exert itself if there were no state-wide candidates. In these instances of less state party activity, the party-orientation of the delegates selected would be less than in other instances. I therefore hypothesize that conventions with at-large delegates will have greater party value orientations among their delegation than conventions without at-large delegates.

A-3. The selection of delegates in direct primaries.

If a delegate is selected in a party primary there is a greater opportunity that he will carry the values of the party into the final election and into the convention itself. A delegate-candidate who carries a party label into the general election carries the party's interest of winning the election, and also carries the support of the party into that election. If there is no primary election, delegate-candidates are not obligated to make overtures toward a political party and its value, but rather they can approach the voters' independent of party orientations. I therefore hypothesize that delegates who were selected in party primaries are more party-value oriented than are delegates who are not selected in primary elections.

A-4. The filling of vacant convention seats by public officials outside of the convention rather than by personnel within the convention.

In theory, constitutional conventions are organizations independent of all other branches of state government. As non-going entities constitutional conventions may perform their tasks not subject to the party values that are inherent in the state legislative and executive departments. When the appointment of convention delegates is also independent of other governmental departments, the delegates may remain above the party-value orientation found in legislative and executive departments. However, when these public officials outside of the convention appoint delegates to fill convention vacancies that independence from party-values is threatened. Therefore, I hypothesize that when delegate vacancies are filled by public officials outside of the convention, the party value orientation of the delegation will be more pronounced than when replacements are made by sources within the convention.

- A-5. No limits upon the eligibility of office-holders to become delegates.

Individuals holding partisan public offices in state or national government are bound by their party value orientation to honor party interests. Their official position represents an interest to their party and to themselves. Being officials, they must be cognizant of the future of their own political careers. If these individuals are permitted to sit in a constitutional convention, they will bring their party orientation to the convention. Their actions will be tantamount to a preservation of their party's interest. Therefore, I hypothesize that states which allow state or national public officials to become delegates will have a more pronounced party value orientation among their convention delegation than will states which declare such officials ineligible to become delegates.

- A-6. A small delegate compensation as opposed to a larger compensation.

Provisions for a high delegate salary will make the political office of convention delegate attractive to individuals who are motivated by values other than party-values. The delegate to a convention makes many sacrifices in the way of conveniences and patterns of daily life. I hypothesize that the highly party oriented individual will endure economic sacrifice to a greater degree than will the individuals who are not so oriented toward their party. For instances, the career politician will seek public office as a delegate not for immediate pecuniary remuneration but as a means of progressing within his chosen career. Hence, higher delegate salaries will result in delegations with less pronounced party value orientations than will low salaries.

- A-7. Election of delegates several months prior to the start of the convention, rather than shorter time before the start of the convention.

The permanent political party organization of a state will have a better opportunity to instill in the delegate-members of the party the values of the party organization if the delegates are selected several months prior to the start of the convention. Once the convention begins, the delegates are confronted with tasks more immediate to their role as delegate. If the delegates are elected only a few weeks prior to the start of the

convention, the state political party will have less of an opportunity to instill a party value orientation among the delegation.

- A-8. Election on a partisan ballot rather than election on a ballot which makes no mention of party affiliation.

Among the earliest goals of "good government" groups, has been the removal of party labels from the election ballot. The claim that non-party oriented are more apt to be selected by this process provides the rationalization for this hypothesis.

- B. The process of selecting delegates to the convention will result in a more party value oriented delegation when:

- B-1. Small numbers of candidates seek convention seats.

If large numbers of candidates seek to become convention delegates, the chances are greater that the candidates selected will have less of an identification with their political party than if they were elected without opposition or with little opposition. Little opposition may very well signify complete party dominance. I assume that the political parties will seek to have party-oriented candidates in most election districts. Additional candidates would not be sought out by the party organization, but rather, they would be supported by individuals and groups with less of a party orientation than the party organization. Where these additional candidates seek election, there is a chance that they will be elected. Also, if the party has given its endorsement to a candidate, other candidates, no doubt less attached to the party organization, will face great probability of defeat. I therefore hypothesize that the party-value orientation of a delegation elected from a large number of candidates will be less than the party-value orientation of a delegation selected from a smaller field of candidates.

- B-2. There is a higher degree of party activity in the selection of the delegates, when there is no bi-partisan cooperation in the selections.

It is almost axiomatic that elected candidates will have a stronger party identification if their parties are active in their elections, rather than if their parties are not active. However, if the activity of the party consists of bargaining with the opposition party in order to select "bi-partisan"

candidates, the political orientation of the selected delegates will be less than if the two parties did not so cooperate. I assume that the bi-partisan cooperation in selecting the delegates would carry over into a bi-partisan cooperation among the delegates at the convention.

**B-3. There is a low voter turnout in the delegate elections.**

A low voter turnout is indicative of low public interest in an election. When the public as a whole lacks interest in an election, the political parties are better able to control the results by "turning-out" their regular partisan voters. I hypothesize that delegates selected by a low percentage of a state's eligible voters will have a greater party-value orientation than will delegations chosen by a wider based electorate.

**B-4. The party division of the delegates is one in which there is clearly a majority party, but the party's numerical majority is not extraordinary. The party orientation will be less if there is no clear majority, or if the majority is extra-ordinary.**

The goal of a party in an election such as an election of delegates is to secure a majority of representatives on an elected body. If an extraordinary majority is secured, the majority party no longer perceives a threat from the minority party. Also, if the balance of power between the parties is stabilized by equal numbers of representatives from each party, the party value orientation of the delegates need not be overtly expressed unless a threat to the balance arises. However, when a party has secured a marginal majority of representatives in a political body, party values must be emphasized in order to solidify that majority, in order to make it responsible to the party leaders at the convention. Delegates conscious of belonging to an unstable majority will be encouraged by their party leaders to become more strongly oriented toward their party in order to insure the continuance of the majority.

**C. The opportunity to satisfy party interests will arise more readily when delegations display the following characteristics which reflect an orientation toward party values:**

**C-1. A large proportion of delegates are current and former party and public officeholders.**

- C-2. Several delegates seeking election to public office at a time subsequent to the end of the convention.

As reasoned in the presentation of hypothesis A-5, delegates who hold or who have held partisan office, either in their party or in government, will be conscious of the interests of their party, because their office entailed an interest to their party. Delegates who seek election to partisan office subsequent to the end of the convention will be very conscious of their party's interest, because the party's interest is equated with personal interest.

- C-3. The delegates are young.

Young delegates look to the future for partisan political rewards. These delegates more than older delegates will be conscious of the future political interests of their party. Older delegates will not perceive the future interest of their party in personal terms. Therefore, I hypothesize that younger delegations will have a stronger party value orientation than will older delegations.

- C-4. A large proportion of the delegates are lawyers.

Members of the legal profession enjoy greater opportunities to advance in public offices than do members of other professions. The major share of public offices related to the judicial system are reserved solely for lawyers. Occupationally lawyers are in an advantageous position to become career politicians. Because a higher percentage of politicians are lawyers than members of any other single occupation, I hypothesize that conventions with higher percentages of lawyers in their delegation will be more oriented toward political party values than will conventions with fewer lawyers.

- C-5. A small proportion of delegates are women.

Women are generally less party value oriented than are men. Women in politics do not have the opportunity to seek the multitude of offices open to men. Women delegates would therefore have a lower political aspiration level than would male delegates. From this, I hypothesize that a delegation with a lower percentage of women will be more party value oriented than a delegation with a higher percentage of women.

## CHAPTER THREE

### PARTISAN POLITICS AT THE CONVENTIONS

The theme of my study is partisanship in five state constitutional conventions. My purpose is to analyze the factors responsible for the intrusion of party values into the deliberations of the conventions. To analytically determine why party values become prominent in some of the conventions, I must devise a means for deciding in which conventions party values were prominent forces. The purpose of this chapter is to make just such a judgment. In determining the validity of the hypotheses I have set forth, I will make a comparative investigation of the variables as found in each convention. Therefore, I also endeavor to make a comparative investigation of the degree of party value prominence in the conventions. In choosing the criteria for judging partisanship, I was conscious of the fact that the five conventions did not all resolve the same substantive questions. Also, in different conventions, resolution of the same questions would have completely divergent political implications. For example, an area-population compromise of the legislative apportionment issue in the 1938 New York Convention would have much different political consequences than would the same compromise in the 1961-2 Michigan Convention. The 1962 Supreme Court interpretation

of the Fourteenth Amendment's "equal-protection" clause as being applicable to state legislative apportionment completely altered the consequential setting of this prevalent political controversy. Because substantive issues in the five conventions had such different implications, I generally turned away from substantive matters in formulating my declaration of party-value prominence in each of the conventions. More stable, hence more comparable, questions arose in the procedural arena of each convention. Each convention had to choose a President and other officers; each had to formulate rules of procedure and organization. These rules provided for a committee structure; in each convention delegates were appointed to serve as chairmen and members of committees. Questions concerning the time or method of submitting the convention's work to the electorate for ratification had to be answered by most of the conventions. Also, most of the conventions had to resolve a basic question wrought with political implications--how to dispense convention patronage. Coming nearer to the substantive realm of convention action, I also investigate the convention action taken on the total product--ergo, how well was the final convention product received by the delegates. And, I look briefly at the campaign for ratification.

Each of the foregoing points, compared in this chapter, offer evidence of the party value prominence in the conventions. Generally, if the delegates accorded unanimity or near unanimity to the resolution

of the mentioned points, I conclude that they have arrived at a condition of bipartisanship. Alternatively, I conclude that party values are accorded a high degree of prominence if a division of the delegation on these matters parallels party lines. Bipartisanship and non-partisanship are equated with the lack of prominence of party values in the convention deliberations. I assume that a lack of prominence of party values in the resolution of procedural matters will accompany a lack of prominence for those values in substantive matters: that by investigating procedural matters alone this chapter gives a valid indication of partisanship at the conventions.

## I. MICHIGAN

### A. PRE-CONVENTION MEETINGS AND SELECTION OF OFFICERS

Delegate activity in the Michigan Constitutional Convention started in party meetings. The delegates were elected on September 12, 1961; the convention officially met for the first time on October 3rd. Each party conducted pre-convention meetings of their delegates. The All-Michigan Republican Conference met September 21-23 at St. Joseph, Michigan. The 750 Republicans attending were quite enthusiastic over the results of the delegate elections, which sent ninety-nine Republicans and only forty-five Democrats to the convention. Fifty of the ninety-nine



Republican delegates attended the Conference.<sup>1</sup> The fifty delegates decided that all Republican delegates should meet in Lansing prior to the convention in order to "thrash out differences" and to choose convention officials. The delegates authorized G.O.P. State Chairman, George M. Van Peurse, to issue an official call for the caucus to meet in Lansing.<sup>2</sup>

While most of the majority delegation was meeting in St. Joseph, the Democrats were meeting in Ann Arbor. With a force of only forty-five delegates, the Democrats were quite interested in having the convention be as bi-partisan as possible. Hence, they requested that the Republicans join them in appointing a committee to review plans for the starting days of the convention. The request was received too late for action to be taken at the St. Joseph meeting. However, some Republican opposition had already been aired toward the idea of bi-partisan planning.<sup>3</sup> Adelaide Hart, leader of the Democratic caucus, saw to it that all the delegates were informed of the Democratic stand on rules and organizational matters. She sent a communique to all delegates of both parties in order to gain support for matters such as open meetings, recorded roll-call votes on all issues, minority reports, and open election of the convention president.<sup>4</sup>

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<sup>1</sup>Republican State Central Committee, Plain Talk (circular), October 1, 1961, p. 9.

<sup>2</sup>The State Journal (Lansing), September 22, 1961, p. 12.

<sup>3</sup>Ibid., September 24, 1961, p. 1.

<sup>4</sup>Ibid., September 28, 1961, p. 37.

There was no consensus among the St. Joseph delegates on the choice for the convention presidency. From the meetings it became clear that there were two factions among the Republicans, the moderates and the conservatives. Several delegates felt that it would be disastrous if the Republicans had to battle among themselves on the convention floor in order to choose a president. Three conservative leaders, Edward Hutchinson, D. Hale Brake, and Stanley Powell, felt that the caucus had to make the choice, and therefore some Republican had to come out of the caucus with seventy-three votes (an absolute majority of the 144 delegates). As delegate Brake put it, "We will be the laughing stock of the state if the president is elected by coalition".<sup>5</sup> However, delegate Romney, leader of the moderates, indicated that if his name were placed in nomination he would willingly accept Democratic support, because he favored a non-partisan convention.<sup>6</sup>

The Republican caucus met on Friday, September 23. The caucus was chaired by Arthur Iverson of Detroit. George Romney, Automobile Industrialist and head of Citizens For Michigan, a civic group formed by Romney, and Edward Hutchinson, a former state senator, were placed into nomination for the office of president. Political scientist James Pollock of the University of Michigan, and John Hannah, president of Michigan State University, were placed into consideration as

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<sup>5</sup>Ibid., September 23, 1961, p. 8; and September 22, 1961, p. 12.

<sup>6</sup>Ibid., September 26, 1961, p. 4.

"compromise" candidates. But after two days of balloting the caucus found no compromise. There was only stalemate. Not only had each candidate failed to receive seventy-three votes, none had received a total equalling a majority of the ninety-nine Republican delegates. On Monday morning, October 2, the caucus decided to give their unified support on the convention floor to the candidate first receiving fifty votes in the caucus. On the first Monday morning ballot, Stephen Nisbet, retired vice president of Gerber Baby Foods Co., and former chairman of the State Board of Education, was nominated. He received twenty-seven votes. Then Edward Hutchinson withdrew his name from consideration, and after another ballot, Nisbet was able to secure fifty-one votes. Delegates at the caucus agreed that Nisbet won with votes of the supporters of Hutchinson. However, Nisbet came to the convention unidentified with either of the two Republican factions.<sup>7</sup>

The Republican caucus then decided that the convention should use the services of three vice presidents, two Republican and one Democratic. The caucus quickly agreed that their two should be George Romney and Edward Hutchinson. The Democratic caucus meanwhile chose Tom Downs, attorney for the Michigan A. F. L. -C. I. O., as the third vice president.

On October 3, the Constitutional Convention officially convened in

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<sup>7</sup>Gongwer News Service, Inc., Constitutional Convention Report, Number 1, October 2, 1961. (Hereinafter cited as Gongwer Report.)

the Lansing Civic Center. Nisbet's name was formally put into nomination by Republican Kenneth Prettie. The nomination was seconded by William Marshall, a leading Democrat and executive vice president of the Michigan A. F. L. -C. I. O. Nisbet was elected unanimously.<sup>8</sup>

Secretary of State James M. Hare, a Democrat, presided over the convention while the delegates were electing their president. Hare had prepared a sufficient amount of ballots for eight rounds of secret voting.

Up until the time of the balloting, Hare did not know whether or not Nisbet's election would be unanimous.<sup>9</sup> Some Democrats had wanted to place in nomination a candidate of their own. However, the leaders of the minority party were able to convince those Democrats that Nisbet was not going to be opposed.<sup>10</sup>

The choice of Nisbet was welcomed by delegates of both parties. Tom Downs voiced his party's sentiment toward Nisbet when he said, "I have known Stephen Nisbet for several years. He is an honorable man, an honest man, and I do not believe he has a malicious bone in his body".<sup>11</sup> Republican Delegate J. Harold Stevens called the choice

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<sup>8</sup>State of Michigan, Journal of the Constitutional Convention, Number 1, October 3, 1961, p. 5. (Hereinafter cited as Michigan Journal).

<sup>9</sup>Interview with Secretary of State James M. Hare, April 30, 1962.

<sup>10</sup>Gongwer Report, Number 2, October 3, 1962.

<sup>11</sup>The State Journal, October 3, 1961, p. 18.

of Nisbet very fortunate; he mentioned that throughout the convention Nisbet was fair to all the delegates, and that he was never criticized by the Democrats.<sup>12</sup> Bernard Apol, Nisbet's official convention assistant, attributes to Nisbet's leadership the spirit of cooperation that lasted through most of the convention.<sup>13</sup>

Senate Secretary Fred I. Chase, a Republican, was elected to the post of convention secretary. Chase was not a delegate. His election was by acclamation.<sup>14</sup> Thus the selection of convention officers, a major convention task, was accomplished with a spirit of bi-partisanship and to the satisfaction of the leaders of all convention segments.

The delegates had the right to contest the election of any other delegate to the convention. A majority of the delegates would be able to disallow the seating of another delegate if they believed the delegate was not qualified for the seat. The convention rules allowed ten days from the start of the convention for any challenges. The Republicans had sufficient votes to make a challenge successful.<sup>15</sup> Two Democratic delegates each had in the past acted in a manner which some people felt would disqualify them in the eyes of their fellow delegates. One had once

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<sup>12</sup>Interview with Delegate J. Harold Stevens, May 25, 1962.

<sup>13</sup>Interview with Bernard Apol, Administrative Assistant to Convention President Stephen Nisbet, May 4, 1962.

<sup>14</sup>Michigan Journal, Number 1, October 3, 1961, p. 6.

<sup>15</sup>See Rule 26, Michigan Journal, Number 4, October 10, 1961, p. 23.

been a member of a liberal political movement. The other had served a short prison term. The latter had previously been elected to sit in the Michigan State Senate only to have the Republican majority there refuse to seat him.<sup>16</sup> There was talk of challenging the convention seats of these two delegates. Although the delegates were given ten days in which to make their challenges, the proper time for a challenge would be at the time of the swearing in of the delegates. When the time came, no challenges were heard. None were received during the first ten days of the convention either.<sup>17</sup> The Republicans chose not to antagonize the minority party during the early days of the convention, and break the spirit of harmony that seemed to prevail.

#### B. CONVENTION RULES

Among the first of the duties performed by President Nisbet was the appointment of a committee on permanent organization and rules. The committee appointed was chaired by Richard Van Dusen, a Republican closely associated with George Romney. There were ten Republicans and five Democrats on the committee; both Arthur Iverson and Adelaide Hart, chairmen of the respective caucuses were appointed to the committee.<sup>18</sup> The committee picked up the work of a steering

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<sup>16</sup>State of Michigan, Sixty-eighth Legislature, Journal of the Senate, Number 1, January 12, 1955, pp. 6-7.

<sup>17</sup>Interview with James M. Hare, April 30, 1962.

<sup>18</sup>Michigan Journal, Number 1, October 3, 1961, p. 7.

committee which had been working several days before the opening of the convention. The steering committee was also chairmaned by Van Dusen.

On the fourth day of the convention, the committee recommended the adoption of seventy-four permanent rules. Seventy were adopted on that day. Richard Austin, a Democrat from Detroit presented the following resolution for convention consideration:

"Be it resolved that we, the members of the committee of Permanent Organization and Rules, commend the chairman (Republican Van Dusen) for the competent and impartial manner in which he conducted the business of this committee and the manner in which he presented its findings."<sup>19</sup>

The convention unanimously approved the resolution. The work of the rules committee was made much easier in that the committee members generally followed the non-politically motivated manual of rules and organization compiled by William J. Pierce of the University of Michigan Law School.<sup>20</sup> Among the rules were liberal provisions for minority reports, public committee hearings in cities other than Lansing, liberal allowances for lengthy debate, and liberal provisions for recorded roll call votes. Adelaide Hart stated,

"They (the Republicans) have been very friendly and fair and we are trying to meet them half way. We do not want

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<sup>19</sup>Resolution Number 6, Michigan Journal, Number 4, October 10, 1961, p. 29.

<sup>20</sup>Albert Lee Sturm, Constitution-Making in Michigan 1961-1962 (Ann Arbor: Institute of Public Administration, University of Michigan, 1963), p. 58; also see infra, p. 144.

to be an obstructionist minority. Later we may argue. But we think that in a matter of procedure (they)... will be entirely fair."<sup>21</sup>

The convention determined that delegates would be seated in alphabetical order rather than by party. This decision, originally made in the Republican caucus was an overture towards creating a bipartisan spirit for the convention.<sup>22</sup> Pierce had suggested the alphabetical arrangement in his manual. The arrangement was a far-cry from the arrangement used in the highly partisan Michigan legislature. Political scientist James Pollock, who professed ignorance over the reasons behind the eventual decay of bipartisanship at the convention, commented,

"Instead of dividing the delegates as is normally done in legislative bodies into Democrats and Republicans, we decided at the beginning of the Convention to seat delegates alphabetically. This meant that delegates were seated not only without regard to party, but also without regard to the district they came from. The result was that the Convention from the political point of view and from the regional point of view was mixed together in a rather remarkable way. I think the seating arrangement had something to do with developing the unity of the Convention."<sup>23</sup>

Partisanship flared up for the first time in the convention in debate concerning open committee hearings. The Democrats were generally committed to having all convention meetings open to the public at all

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<sup>21</sup>Gongwer Report, Number 5, October 9, 1961.

<sup>22</sup>Ibid., Number 2, October 3, 1961.

<sup>23</sup>James K. Pollock, Making Michigan's New Constitution 1961-1962 (Ann Arbor: George Wahr Publishing Co., 1962), p. 25.



times. Most Republicans were also dedicated to having an open convention. However, the Republican caucus approved a rule permitting secret meetings where votes on questions were not to be taken. The Rules Committee was the first arena for official argument on the question. Republican delegate Alvin Bentley, the only former Congressman at the convention, moved that a committee could have secret sessions if a majority of the committee members desired them. The Rules Committee defeated Bentley's motion. The committee also defeated a move to establish the rule approved of in the Republican caucus. No rule came out of the committee on the issue.<sup>24</sup> Newspapers in the state hailed the lack of committee action as a victory for the Democrats and others--including news media--favoring an open convention.<sup>25</sup> However, when the issue reached the convention floor the Democrats lost their battle for a positive rule declaring the convention to be completely open. A motion by Democrat William Ford requiring a completely open convention was defeated 100-41 on what was generally a party-line vote. The convention, instead, approved a rule which would have allowed secret sessions if seventy-three delegates approved of having the particular session secret. Newspapers now claimed that the

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<sup>24</sup>The Ann Arbor News, October 6, 1961, p. 5.

<sup>25</sup>Ibid., October 7, 1961, p. 4; and The Detroit Free Press, October 6, 1961, p. 3

Democrats were beaten, and that closed sessions were approved.<sup>26</sup> Although the Democrats lost a party-line vote, they were by no means a "trammeled-on" minority on this issue. The proposition that seventy-three delegates could authorize secret sessions was not too great a pill to swallow. If Ford's proposal would have been adopted, seventy-three delegates could have subsequently amended it to allow secret sessions; or, two-thirds of the delegates present at any session could have suspended the rule.<sup>27</sup> The rule adopted did present quite a hurdle for proponents of closed sessions. In the whole course of the convention not once did any delegate move to have closed sessions. There were no closed sessions at the convention. That this Democratic victory was a victory for non-partisanship or bipartisanship is rather dubious. Several delegates to the convention, for the most part the entire Democratic delegation, came to the convention committed to certain proposed changes in the constitution. Such commitments could not easily fall in full view of the delegates' constituents and the press. Yet an unyielding grasp upon the commitments would only result in a very partisan convention. When secret meetings were made improbable, the delegates of the separate parties had no forum in which they could graciously yield their staunch campaign promises for the unity of the convention. Rather, the delegates had only one secret forum left, their

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<sup>26</sup>The Ann Arbor News, October 12, 1961, p. 2; and The Detroit Free Press, October 12, 1961, p. 3.

<sup>27</sup>See Rule 68, Michigan Journal, Number 4, October 10, 1961, p. 27.

party caucus. Here campaign promises could fall "for the good of the party." Such became the case, and as subsequent pages reveal, Michigan's convention became a very partisan affair.

### C. COMMITTEES

The bipartisan spirit that prevailed over the formulation of the convention rules of procedure and organization was continued in the area of convention committee appointments. The convention utilized the services of thirteen standing committees. Nine were substantive committees: the committees on Declaration of Rights, Suffrage, and Elections; Legislative Organization; Legislative Powers; Executive Branch; Judicial Branch; Finance and Taxation; Local Government; Education; and Miscellaneous Provisions and Schedules. Three of these committees had fifteen members each; five had twenty-one; and, one, the Local Government Committee had twenty-seven members. Four of the thirteen committees were procedural committees; the committees on Style and Drafting, Rules and Resolutions, Administration, and Public Information. Each of the committees had fifteen members except for the Public Information Committee which had twenty-one members. Neither William Pierce's manual nor the proposed rules and organization compiled by the non-partisan Coordinating Committee for the Constitutional Convention agreed exactly with the committee structure finally arrived at by the delegates.<sup>28</sup> The differences were minor however. The

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<sup>28</sup>See infra pp. 130-131 for a description of the Coordinating Committee.

Coordinating Committee provided for eleven committees; Pierce called for the establishment of twelve committees.<sup>29</sup>

On July 28, 1961, three days after the primary elections for convention delegates, two Democratic nominees, aware that apportionment of delegates seats favored a Republican majority, yet unaware that the Republicans would numerically be an overwhelming majority at the convention, issued a press release. Tom Downs and William Marshall demanded that,

"The political parties should select the convention committee members on a fair basis with the majority party having a majority of members commensurate with its voting strength and each party selecting its own members to serve on committees. The convention chairman--whoever he may be--should not have the power of appointing committee members...."<sup>30</sup>

Downs reiterated his stand on August 7, saying,

"Committee assignments shall be made by the convention delegates themselves. The delegates of different parties shall have the opportunity to recommend people for the convention committees but the entire convention must pass upon the final selection of committee members."<sup>31</sup>

The Coordinating Committee, however, urged that the President make the appointments; whereas, Pierce suggested that the President in counsel

<sup>29</sup>Coordinating Committee for the Constitution Convention, "Proposed Rules Constitutional Convention of Michigan," Detroit, July, 1961, p. 5 (mimeo.); and William J. Pierce, A Prepared Manual of Organization and Procedure for a State Constitutional Convention (Lansing: Michigan Convention Preparatory Commission, 1961), pp. 14-15.

<sup>30</sup>Thomas Downs and William Marshall, Press Release, July 28, 1961

<sup>31</sup>Thomas Downs, Press Release, August 7, 1961

with the Vice Presidents should either make the appointments, or make the nominations for the convention as a whole to ratify.<sup>32</sup> Pierce did not feel that the minority party, as such, should make appointments; he did feel that the party labels should be wholly ignored in appointments, or the appointments be apportioned among parties according to convention strength. Pierce also urged that each delegate be placed on at least one substantive committee, and no more than two committees.

The convention chose to follow the course suggested by Pierce. Formally, the President and the Vice Presidents were to make nominations that would be ratified by the whole convention. The Democrats, holding slightly less than one-third of the convention seats, were allotted one-third of the seats on each committee. In actual fact, the desires of delegates Downs and Marshall were fully realized. The Democrats were given the opportunity to award the committee seats allotted to them. Of the five constitutional conventions this was the only one in which the minority party was allowed to appoint their members to committees. This concession by the Republicans is one of the strong indicators of the convention's cooperative bipartisan beginning. As a matter of fact, Democratic delegate William Marshall said he doubted that had the Democrats held the same convention majority, they would

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<sup>32</sup>Coordinating Committee for the Constitutional Convention, op. cit., p. 5; Pierce, op. cit., p. 35.

have been so generous.<sup>33</sup>

Each delegate was requested by President Nisbet to fill out a form listing four choices, in order, of committees on which he would like to be placed. The requests were then given to Nisbet. In the case of the Democrats, these forms had no functional meaning. They were an aid for the President and the two Republican Vice Presidents in the selection of Republican committee members.

Each committee had a chairman and two vice chairmen, one a Republican and one a Democrat. Hence, in each committee the Democrats were allowed to have a formal leader. The chairmen, all Republicans, were appointed by Nisbet. At first there was support for the idea that the committee members choose their own chairman, however, in the interest of convention unity, this power was given to Nisbet. It is interesting to look at the criteria used by Nisbet in making the selections. Nisbet's own comments reveal that he read the National Municipal League's Manual on constitutional convention organization and planning. The manual mentioned that delegate-experts should not dominate the convention's committees, by being chairmen.<sup>34</sup> Nisbet told how he picked the chairmen,

"Pick the committee members first, then choose as chairman a recognized leader who can provoke discussion, achieve

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<sup>33</sup>The Detroit News, October 8, 1961, p. 11-B.

<sup>34</sup>John Wheeler, The Constitutional Convention-A Manual on its Planning, Organization, and Operation (New York: National Municipal League, 1961), p. 50

compromise and one who has no special interest in the subject matter of the committee he heads."<sup>35</sup>

A glance at the delegates he chose for chairmen of the committees indicates that his deference to the "good government" rule was one of only "lip service". The chairman of the Rights, Suffrage, and Elections Committee was an outstanding political scientist, James Pollock, who had among other works written, The Direct Primary in Michigan 1909-1935 (1943), and Initiative and Referendum in Michigan (1940). Nisbet's Legislative Organization chairman was not an "expert" on the legislature. But, his Legislative Powers Committee chairman was a former legislator. The Executive Branch Committee chairman had been on the State Administrative Board, serving as State Auditor General. The Judiciary Committee chairmanship went to a former United States district attorney. The Finance and Taxation Committee chairmanship was handed to a former State Treasurer. The reins of the Local Government Committee were placed in the hands of a man who was a member of his city's planning commission and also his county's board of supervisors. A former congressman with no special interest in education was given the job of heading the Education Committee. A man who was on the board of a utilities company was given the chairmanship of the Miscellaneous Provisions and Schedule Committee, the committee which sent to the convention floor proposals for that part of the basic law concerned with corporations and utilities.

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<sup>35</sup>The Detroit News, October 11, 1961, p. 18-B.

The four procedural committee chairmen were all "expertise" in the area of their committee. I surmise that the above "lip service" criteria was not meant for these men. They had to be "expert" or at least very interested in their committees' work, because they had to produce quick results that had a bearing on the convention's operation as a political body.

I have illustrated the lack of meaning in Nisbet's contention by looking into the backgrounds of the chairmen. But, perhaps the fact that a man once served in the legislature does not mean that he is now interested in legislative powers. The same might be true for the former state Treasurer, or the former United States attorney. Therefore, let me endeavor to find if many of the appointees were interested in their committee's substantive matter at the time of their appointment. For the most part, they must have been. The professor leading the Rights Committee, as a student of government, would be bound to be interested in any discussions of government that he would lead, especially when those discussions would revolve around topics which he had written upon. The chairman of the Legislative Organization Committee, was the president of Michigan State University. As such, he would have to approach the legislature that his committee was structuring for appropriations each year. He was necessarily bound to be very interested in the work of his committee. The former legislator heading the Legislative Powers committee had more than a past interest in the legislature. On the request sheet he handed to President Nisbet he requested as his



first choice service on the legislative powers committee. Also, following the adjournment of the Convention, he again sought election to the State House of Representatives. The head of the Executive Committee requested, as his first choice, placement on the committee. Likewise the leader of the Judicial Branch Committee requested placement on that committee as his first choice. His high degree of interest in the affairs of the committee can be realized from the fact that he was his party's choice for the Attorney General election contest in 1962. The former state Treasurer heading the Finance Committee wished as his second choice, appointment to that committee. Perhaps the Local Government and Education Committees' chairmen had no current interest in the scope of their committees' substantive matter. However, the head of the Miscellaneous Provisions Committee requested the chairmanship of that committee.

The evidence adequately demonstrates that Nisbet was not following the criteria he set forth as the basis of his selections. However, by straying away from one "good government" recommendation--appointment of non-experts--he did not by any means facilitate partisanship in the convention through his appointments. No Democrats were given appointments, and almost all of the chairmen were strongly identified with the Republican Party. But the chairmen of the most important committees were not the most partisan Republicans. Committee assignment request sheets given to Nisbet by delegates of both parties give an indication of the importance of the work of each committee. The highest

number of requests were for assignment to the Local Government Committee. The next most requested committee was the Legislative Organization Committee. Delegate Theodore Brown mentioned that among the Democratic delegates, the Rights, Suffrage, and Elections was perceived-- as reflected by the delegate requests--as being the most important committee. Again the Legislative Organization committee was the next most important.<sup>36</sup> The chairmen of these committees were not the most partisan Republicans at the convention. Arthur Elliott, head of the Local Government group did become the Republican State chairman following the convention, but his convention identifications were clearly with the group of moderate Republicans led by George Romney. Romney's non-partisan overtones at the Convention's early stages, made his followers appear to be less party-oriented than the other delegates. John Hannah, leader of the Legislative Organization Committee, is President of Michigan State University. Hannah never held partisan elective office prior to the convention. Although regarded as a Republican prior to the convention, he had served in governmental positions for national administrations of both parties. As a state university president he had judiciously avoided being labeled as a member of the Michigan Republican Party. Professor James K. Pollock was appointed to chair the Rights Committee. Previous to the convention he had never been identified with either party. Nisbet facilitated the bipartisan spirit which prevailed

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<sup>36</sup>Interview with Delegate Theodore Brown, December 19, 1961.

over the start of the convention by refraining from placing strongly party oriented delegates in committee positions of the highest perceived importance. Other chairmen, judging from the personalities of the men, were divided fairly evenly among the moderate and the conservative Republicans.

In the Republican caucus at the start of the convention, Delegate J. Harold Stevens urged his party to utilize a committee on committees in making appointments of Republicans to the committees. The caucus defeated a motion to that effect.<sup>37</sup> Instead President Nisbet and the two vice presidents made the selections. As with the selection of the chairmen Nisbet claimed to have followed a "rule" in making appointments. Both the President and Vice President Romney informed me that they used four criteria in making the selections. These were, the area of the state from which the delegate came, the delegates political philosophy, his experience and his preference. The National Municipal League happens to list four criteria.<sup>38</sup> I believe it not to be a coincidence that the four are identical to those mentioned by the two convention leaders. Perhaps, the two men were paying only "lip-service" to these rules. It is clear that they felt obliged to put the cloak of non-partisan respectability upon their actions by labeling them with Municipal League standards. Perhaps an overemphasis of wholesome "Municipal League"

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<sup>37</sup>Interview with J. Harold Stevens, May 25, 1962.

<sup>38</sup>Wheeler, op. cit., p. 49.

non-partisanship was an indicator that any genuine spirit of bipartisan-ship at the beginning of the convention lacked the depth to persist in the heat of substantive debate.

The President and the two vice presidents did spread the committee awards around so as to satisfy most of the delegates. However, some delegates were quite dissatisfied with the resulting appointments. Six Republican women at the convention were very disturbed. Each delegate had made four choices of committees on the request form that was given to President Nisbet. Only four of the ninety-nine Republicans at the convention failed to be given any of his four choices. Two of the six women were among the four. Also, of the twenty-six chairmanships and vice-chairmanships awarded the Republicans, none went to the six women delegates. One of the women charged that the party leaders named women only to the lesser committees and that they "did not recognize the ability of our women and we are not going to be used effectively."<sup>39</sup> One of the other four delegates not to receive any of his four choices for committee assignment was Richard Kuhn of Pontiac. Kuhn remarked,

"Apparently there are three groups here, the Democrats, the Republicans in the know, and the Republicans who are not in the know. I am one of the latter. I notified convention leaders of my first four choices for committee assignment and did not get any of them. This is not fair treatment."<sup>40</sup>

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<sup>39</sup>The State Journal (Lansing), October 11, 1961, p. 41.

<sup>40</sup>Idem.

Mr. Kuhn remarked that he was disappointed at the favoritism shown by the leaders. Coming from the same county as one of the convention vice presidents, he expected to have one of his requests fulfilled. He was further disappointed with the fact that another delegate from his county had been given his first choice and a committee chairmanship as well. It is some significance that all the complaints heard about committee assignments came from delegates of the majority party. These complaints indicate that early in the convention the majority was not a tight-knit group able to present a single unified front in the convention. The story with the Democrats is quite different.

The Democrats took meticulous care so that their delegates would not feel "left-out", and also so that the delegates could be used effectively. The Democratic caucus selected a six-member committee on committees, led by Theodore Brown of Garden City. The Democratic delegates gave lists of their committee preferences to the committee. The group of six discussed each delegate, his background and his preferences. Next, the delegate was interviewed by the committee. Each interview lasted from twenty minutes to an hour. Each of the members of the selection committee were likewise interviewed by their fellow committee members. The selections made by the committee were announced in an open caucus one day before they became official. By this manner, any injustices could be remedied. The caucus heard any delegate gripes. However, only one delegate was disturbed over his appointments. This delegate was convinced in caucus that the selection

committee had treated him as fairly as any other delegate. The Democrats used their caucus to aid in unifying their delegates so that their numbers would be effective to the fullest possible extent.<sup>41</sup>

The Democrats won a major first round battle in the selecting of the committees. They were able to place their delegates where they felt they could do best for the party. They adopted an appointment procedure that guaranteed the contentment of their ranks. Republican J. Harold Stevens hinted that the Democrats "stacked" the Rights, Suffrage, and Elections Committee of which he was the first vice-chairman. Of the five Democrats on the committee two were Negroes and two were active members of the American Civil Liberties Union.<sup>42</sup>

Republican delegate Kent Lundgren stated that:

"The Democrats did better party-wise in committee assignments than the Republicans, because while there were fewer of them, they got their stronger people onto important committees, and the Republican command thought it had to appease its larger membership and pass the committee plums around... that Republican haste to get the committee appointments made resulted in less than best choices for the posts among the Republicans."<sup>43</sup>

Speaking generally, the Democrats were able to utilize to their advantage the concessions given by the Republicans in allowing proportional committee strength. The Democrats were able to approach the committee

<sup>41</sup>Interview with Delegate Theodore Brown, December 19, 1961.

<sup>42</sup>Interview with J. Harold Stevens, May 25, 1962.

<sup>43</sup>The Escanaba Daily Press, October 14, 1961.

stage of the convention with a strength greater than their numbers, a strength of unity.

#### D. PATRONAGE

As with the arrangements made for committee organization, and the rules for convention procedure, the choosing of a convention staff was not a matter for partisan activity. The delegates decided that sixty-six employees would be hired to help the convention. Bernard Apol, who was very active in setting up the physical arrangements for the convention was the first staff member hired. He served as Assistant to President Nisbet.<sup>44</sup> The three men who had conducted the research activities of Governor John Swainson's Preparatory Commission, Alfred H. Kelly of Wayne State University, William A. Coombs of Michigan State University, and Charles W. Joiner of the University of Michigan, were made Directors of Research for the convention.<sup>45</sup>

The Administration Committee, headed by Walter De Vries, was given the prime responsibility of hiring the other convention employees. The stenographic and clerical positions were of such short duration that the employees were not hired to positions controlled by civil service regulations.<sup>46</sup> However, the Committee on Administration secured

<sup>44</sup>The Ann Arbor News, October 10, 1961, p. 2

<sup>45</sup>Gongwer Report, Number 9, October 16, 1961.

<sup>46</sup>Interview with James M. Hare, April 30, 1962.

the help of the Civil Service Commission in selecting the employees. The Commission conducted examinations and reported the scores to the Administration Committee. Two hundred and twenty-five persons were then interviewed by a bipartisan subcommittee of three delegates from the Administration Committee.<sup>47</sup> The entire Administration Committee unanimously approved the appointments made through this procedure.<sup>48</sup> It can be concluded that at the start of the Convention the staff positions were filled without partisanship as a criteria or motivation. As Delegate Pollock mentions in his booklet, Making Michigan's New Constitution, good salaries were provided for the staff members, and a well-qualified staff was put together.<sup>49</sup> Most of the Convention Committees were given a research consultant. These men came from the various state universities in Michigan. The work of the consultants was highly praised by Pollock, chairman of the Rights Committee. He said, "I am convinced that the quality of our product is infinitely greater than it would have been without the assistance of this able staff."<sup>50</sup> These jobs were hardly given as political considerations as most of the research consultants seem to have been Democrats.

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<sup>47</sup> Action Journal (October 9, 1961), Constitutional Convention Committee on Administration; and Pollock, op. cit., p. 34.

<sup>48</sup> Action Journal (October 23, 1961), Constitutional Convention Committee on Administration.

<sup>49</sup> Pollock, op. cit., p. 35

<sup>50</sup> Ibid., p. 36



The seeds of partisanship that were perhaps planted before the Convention began were but struggling germs in a strange soil at the beginning of the convention. One of the first indications that the crop would be cultivated to full growth came in the appointment of a public information staff. The staff that was appointed very possibly had a definite influence of the public image of the delegates and their work. The issue of partisanship involved Mr. Charles Ferry. Ferry was nominated for the post of Assistant Director of Public Information. He was a former publicist for the Republican Party in Oakland County. Before he was hired by the Convention, Ferry wrote two press releases under the authority of the Convention. These releases praised the work of politically-ambitious Republican Rockwell T. Gust, vice chairman of the Administration Committee and also a backer of Ferry for the post.<sup>51</sup> In the Administration Committee meeting of October 26, 1961, Gust moved that the committee recommend to the Convention that Ferry be appointed to the post mentioned. Immediately two Democrats on the committee opposed the motion. The Democrats then moved that the motion favoring Ferry's appointment be tabled until November 6, so that other qualified applicants could be found for the position. All committee members agreed to postpone action until November 1. At the November 2 meeting, Stuart Kirvin was recommended for the position of Assistant Director of Public Information.

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<sup>51</sup>The Ann Arbor News, October 28, 1961, p. 12.

Kirvan won unanimous support from the committee. Ferry was now recommended for the position of Research Assistant. However, this change did not satisfy the Democrats completely. Democratic committee-member Joseph Snyder remarked,

"Before I go on record as having approved these appointments, I would like a statement as to where Mr. Ferry will be assigned. If I do approve of him, it will be with the idea that he is being hired as a research assistant, and if he winds up in public information it will not be a decision of this committee."

Democrat Lee Walker continued,

"It seems to me that all this shuffling of paper is merely a subterfuge to cover the fact that we are going to get this man whether we like it or not...I do feel...that it would be a grave error to appoint controversial people to the only position in this Convention, who would be in a position to 'torpedo' the Convention, so to speak, to the public by any indiscretion in reporting its action."

Ten Republicans then joined two Democrats on the committee in recommending to the Convention that Ferry be appointed to the post of Research Assistant. Three Democrats opposed.<sup>52</sup> On the afternoon of the Second, the committee recommendation went to the floor of the convention. Prior to the afternoon session the Republican delegates met in a caucus to solidify their forces in favor of the appointment of Ferry.<sup>53</sup> On the floor of the convention the Democrats argued that as

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<sup>52</sup>Action Journal (November 2, 1961), Constitutional Convention Committee on Administration.

<sup>53</sup>The Ann Arbor News, November 3, 1961, p. 2.

a matter of principle a man as partisan as Ferry should not be hired by the Convention.<sup>54</sup> However, the Republicans stood solid and Ferry won the appointment. Three Democrats joined ninety-one Republicans in voting for the appointment. Thirty-seven Democrats opposed the appointment.<sup>55</sup>

The appointment battle can be considered as a factor indicating a reliance by the delegates upon values of party interests rather than interests of convention harmony and convention productivity. Ferry, as it was generally considered, had the ability to perform the tasks of the position he sought. Likewise he did demonstrate an indiscretion in his early convention press writing. That only three Democrats could perceive his quality, and that no Republicans could see that he had been guilty of "slanting" the news, is a circumstance that reveals a partisan motivation among the delegates as a whole.

The Republicans were not alone in offering convention positions on the basis of political party considerations. Patronage in the usual sense of the word came into the arena of the convention with the appointment of individuals to replace delegates who resigned their seats at the Convention. The 1908 Constitution provided that upon the resignation of any delegate, the Governor would appoint his successor.<sup>56</sup> Governor

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<sup>54</sup>Gongwer Report, Number 20, November 2, 1961.

<sup>55</sup>Michigan Journal, Number 18, November 2, 1961, p. 95.

<sup>56</sup>State of Michigan, Constitution (1908), Article XVII, Section 4.

John B. Swainson was a Democrat. Twice during the regular (October to May) session of the Convention, Republican delegates resigned to run for legislative seats. In March, 1962, Charles Davis of Onondaga resigned so he could be elected to the House of Representatives. Swainson chose Democrat Howard Jones, a Durand, Michigan, school teacher, as Davis' replacement. Jones' appointment came with the understanding that he would seek Davis' legislative seat in the November election. In April, Republican Kent Lungdren resigned to run for a vacant seat in the State Senate. Democrat Russel Bradley was appointed to fill the vacancy. Bradley was the Prosecuting Attorney for Menominee County, Michigan. His father was a former Speaker of the Michigan House of Representatives.<sup>57</sup>

#### E. PARTISANSHIP IN THE CONVENTION

As mentioned earlier, there were three identifiable groups at the Convention, the Democrats, the moderate Republicans, and the Conservative Republicans. If all three groups agreed on a matter facing the Convention the agreement would be considered bipartisan. If the Democrats united with either of the two Republican groups against the other, the resulting majority would be bipartisan. If no two groups could agree, the Convention action would not be partisan in my view because the Republican factions would not have put party interest ahead of factional interest, or there would be no party interest on the question.

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<sup>57</sup>The State Journal (Lansing), April 12, 1962, p. 8-A.

Only the uniting of the Republicans against the Democrats is to be considered as partisan action.

For a considerable portion of the Convention, the two Republican factions could not unite at all. The Democrats were thereby able to prevent the adoption of provisions repugnant to their positions. The early accepted convention proposals were, for the most part, arrived at with compromises that crossed party lines. Early in the convention the moderate Republicans and the Democrats joined forces to ban a fifteen-mill property taxation limitation. Later coalition of Democrats and moderate Republicans defeated a conservative attempt to draw districts lines for the election of state supreme court justices. The Conservatives and Democrats acted together in defeating a county home rule plan. Subsequently, on the issue of how the executive branch officials were to be chosen, both the Democrats and the conservative Republicans felt that they should be appointed by the Governor. The leader of the moderates, George Romney, believed that the Democrats would control the executive issue as they had controlled the court issue. In the middle of March, Romney made the move that labeled the actions and work of the Convention "partisan" once and for all. Romney sought-out conservative leader D. Hale Brake, and the two Republicans met in private places for three days. They were able to compromise their respective positions and achieve an agreement which they hoped would be supported by at least seventy-three Republicans. The package deal covered most of the major convention issues. Romney, who a month

earlier had announced his candidacy for the Governorship, defended the package compromise by claiming that it was forced upon him in order to save the Convention.<sup>58</sup> He said that he had discovered that the conservatives were about to deal with the Democrats on the matter of selection of top state officials. He felt that the compromise was the only way in which the moderate "ideal" of appointment of the officials could be incorporated to some extent into the document.<sup>59</sup> Romney added that the G.O.P. leaders were not making the compromise package binding upon the way any Republican voted.

The compromise was heavily criticized by Michigan Democrats.

Caucus chairman Adelaide Hart issued a statement saying,

"The hidden leadership that the Democrats have been looking for among the Republican delegates has finally emerged. George Romney has sold out his alleged good government principles by accepting a package deal proposed by conservatives."<sup>60</sup>

Democratic Governor Swainson stated that the compromise doomed the constitution. He hinted that the Democrats would oppose the document.<sup>61</sup>

Though it was immediately known whether or not the items of the compromise would be able to secure the seventy-three needed votes,

<sup>58</sup>The Detroit Free Press, March 16, 1962, p. 1.

<sup>59</sup>Congressional Quarterly Weekly Report, XX (May 18, 1962), p. 861.

<sup>60</sup>The Detroit Free Press, March 16, 1962, p. 1.

<sup>61</sup>Ibid., March 17, 1962, p. 3.

when the proposals came up for convention consideration, the votes were there.<sup>62</sup> From the time of the Republican compromise until the sine die adjournment of the convention, any Democratic attempt to influence the proceedings of the convention from within the convention were rendered futile by the overwhelming Republican majority. The Democrats were a hopeless, frustrated minority.

#### F. HOW THE DOCUMENT WAS SUBMITTED

On November 13, 1961, two Democratic delegates McCauley and McGowan offered Resolution 34 requiring the Convention to submit its final product in its entirety for ratification by the voters.<sup>63</sup> The proposed resolution went to the Rules and Resolution Committee where it lay dormant until the latter days of the Convention. However, the Democratic delegation, now knowing that they would be faced with a constitution containing several provisions repugnant to their asserted interests, sought to have the proposed document, as finally drafted by the Convention, submitted as several major amendments to the 1908 Constitution.

On April 12, 1962, the Gongwer News Service reported,

"The constitution will be presented in one bundle; that's the consensus now, if not the final word. Suggestions that it will

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<sup>62</sup>Karl Lamb, "Michigan Legislative Apportionment, Key to Constitutional Change," in Malcolm E. Jewell (ed.), The Politics of Reapportionment (N. Y.: Atherton Press, 1962), p. 287.

<sup>63</sup>Michigan Journal, Number 23, November 13, 1961, p. 112.

be put to a vote bit by bit, or article by article, are dormant in committee and the format is not conducive to presentation, most convention leaders agree. But the Convention's legal eagle, Assistant Dean Joiner of the University of Michigan Law College, says the Convention has the power to decide whether to submit it in toto, in separate packages, or to set it up article for article against the present constitution."<sup>64</sup>

The April twelfth consensus was not the final word on the matter. On April 25, nine Democrats submitted Resolution 93 to the Rules Committee.<sup>65</sup> The Resolution, which provided for separate submission of Convention proposals for ratification, was killed in the Committee.<sup>66</sup> On the last day of April, the Associated Press conducted an informal poll among the fourteen Republican committee chairmen and found substantial agreement favoring submission of the document in its entirety. Only one chairman, Claude Erickson of the Miscellaneous Provisions and Schedule Committee, favored submission in sections.<sup>67</sup>

The matter was finally decided by the Convention on May 1. Richard Van Dusen reported Resolution 34 out of Committee. The Committee recommended submission in the entirety. Essentially the same group of Democrats that offered Resolution 93 now offered an amendment to the Resolution requiring that the submission of controversial sections

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<sup>64</sup>Gongwer Report, Number 122, April 12, 1962.

<sup>65</sup>Michigan Journal, Number 128, April 25, 1962, p. 1118.

<sup>66</sup>Sturm, op. cit., pp. 268-9.

<sup>67</sup>The State Journal (Lansing), April 30, 1962, p. 11-A



of the proposed document be separate from other provisions. The amendment was defeated by a 36-76 vote. Two Republicans, one of them Erickson, joined thirty-four Democrats in support of the amendment. Seventy-three Republicans and two Democrats, including delegate McGowan, cast votes against the amendment. The Resolution as brought out of the committee was then adopted on a voice vote.<sup>68</sup> The proposed constitution was submitted to the voter as a single package.

#### G. THE DOCUMENT IS ACCEPTED

##### BY THE CONVENTION

Being denied the opportunity of giving separate support to those portions of the proposed document that they favored, the Democrats took an almost totally negative approach toward the document in the last days of the Convention. This is illustrated by the voting on the various articles of the proposed Constitution. Both Republican and Democratic delegations gave almost unanimous support to the new preamble, the article dealing with general governmental provisions (Article 3), and the article concerning property (Article 10). On all other votes on the articles, a partisan division occurred with the Republicans supporting the article and the Democrats rejecting the article. Listed below are the votes on each article along with the party voting:

Article I, Declaration of Rights, 98-30.  
 90 Republicans For; No Republicans Against.  
 8 Democrats For; 30 Democrats Against.

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<sup>68</sup>Michigan Journal, Number 132, May 1, 1962, p. 1233.

- Article II, Elections, 98-33.  
 88 Republicans For; 4 Republicans Against.  
 10 Democrats For; 29 Democrats Against.
- Article IV, Legislative, 83-37.  
 82 Republicans For; 1 Republican Against.  
 1 Democrat For; 36 Democrats Against.
- Article V, Executive, 91-39.  
 87 Republicans For; 3 Republicans Against.  
 4 Democrats For; 36 Democrats Against.
- Article VI, Judicial, 103-33.  
 94 Republicans For; 2 Republicans Against.  
 9 Democrats For; 31 Democrats Against.
- Article VII, Local Government, 92-26.  
 87 Republicans For; No Republicans Against.  
 5 Democrats For; 26 Democrats Against.
- Article VIII, Education, 92-31.  
 86 Republicans For; 1 Republican Against.  
 6 Democrats For; 30 Democrats Against.
- Article IX, Finance and Taxation, 90-34.  
 83 Republicans For; 2 Republicans Against.  
 7 Democrats For; 32 Democrats Against.
- Article XII, Amendment and Revision, 90-34.  
 85 Republicans For; No Republicans Against.  
 5 Democrats For; 34 Democrats Against.
- Schedule, 90-28.  
 85 Republicans For; No Republicans Against.  
 5 Democrats For; 28 Democrats Against.<sup>69</sup>

The Democrats while voting against the articles constantly sought to amend the articles in a futile attempt to remove what they considered to be objectionable sections. Then at a May 7 caucus, the Democratic delegates decided to submit their own version of an entire constitution for convention consideration.<sup>70</sup> On May 9 the delegates caucused for the entire day to consider provisions for the substitute proposed

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<sup>69</sup>Michigan Journal, Numbers 133, 134, 135, May 7, 8, 9, 1962, pp. 1239-1293.

<sup>70</sup>Gongwer Report, Number 137, May 7, 1962.

constitution.<sup>71</sup> The caucus having arrived at a consensus of ideas, left the drafting of the substitute document to four delegates, Jack Faxon, Melvin Nord, Harold Norris, and Richard Austin.<sup>72</sup> The substitute was placed in front of the Convention on the final day of its regular session, May 11. The substitute duplicated 192 of 259 sections in the majority proposal, and it substantially altered only twenty-one sections.<sup>73</sup> However, the Democrats believed that those twenty-one sections were of vital importance to the state and to their interests. When the substitute was presented to the Republican delegates on May 11, the Republican James Pollock castigated this effort by the Democrats; Pollock, as quoted in the Gongwer Report, said,

"(I am) saddened by the actions of the minority party, at this last hour, in presenting a hastily assembled patchwork...for our carefully deliberated document....(I) had hoped this convention would have a nearly unanimous vote...but it appears that the leadership of the Democratic Party...is willing to throw all public consideration aside...and attempt to tarnish the good record of this convention....I find this minority tactic to be destructive of...unity...utterly partisan in nature, self-serving and unworthy.... This proposed constitution is a vast improvement over our present constitution...It deserves the support of every civic-minded citizen....I therefore resent and condemn this personal and party maneuver."<sup>74</sup>

<sup>71</sup>Ibid., Number 139, May 9, 1962.

<sup>72</sup>The State Journal (Lansing), May 12, 1962, p. B-4.

<sup>73</sup>Michigan Journal, Number 136, May 11, 1962, pp. 1308-21.

<sup>74</sup>Gongwer Report, Number 141, May 11, 1962.

Republican Delegate Blandford was even more cutting in his interpretation of the substitute. He said,

"This substitute clearly has been written in Solidarity House (Michigan U. A. W. headquarters) and not here in Lansing... It was just window dressing, this activity here in Convention Hall." <sup>75</sup>

Democrat Nord answered,

"What we (the minority) say now may not be adopted now... but we believe we are right...and we can't accept the present (majority) proposal." <sup>76</sup>

A partisan vote of 100 to 43 killed the substitute. Three Democrats joined ninety-seven Republicans in turning down the effort. All forty-three proponents of the substitute were Democrats. <sup>77</sup> The majority document was then accepted by a 99-44 vote. In that vote, five Democrats joined ninety-four Republicans in support, whereas two Republicans sided with forty-two Democrats in opposition; one Republican abstained. <sup>78</sup>

#### H. RESUME OF THE DOCUMENT

The 1962 Michigan Constitution differed from the 1908 Constitution in many ways. The length of the State's basic law was reduced from

<sup>75</sup>Idem.

<sup>76</sup>Idem.

<sup>77</sup>Michigan Journal, Number 136, May 11, 1962, pp. 1321-1322.

<sup>78</sup>Ibid., Number 136, May 11, 1962, p. 1322.

21,790 to 19,203 words. Several of the changes were viewed by leaders of both parties as improvements. The governor's term was increased from two to four years, Spring elections were eliminated, and the justice of the peace system was abolished. The executive branch was "streamlined", that is, the number of major departments under the governor was reduced from over 120 to under 20. In the area of civil rights, the document became the first in the United States to establish a civil rights commission. Also, there were provisions for general professionalization of the judicial and educational areas of the state government. But not all was so "modern" and acceptable. As I will mention in the next chapter, it was a fiscal crisis in 1959 that focused citizen interest on the need for constitutional revision. The 1959 crisis arose out of a political stalemate, and out of the fact that there existed in Michigan governmental machinery incapable of meeting the problems of state finance. It was in these areas of major state problems that the convention acted with utmost conservatism. On the last day of the convention, Melvin Nord, a leading Democratic delegate, stated,

"We cannot accept the document produced by the convention. We believe it has failed to produce any solution for the problems which led to the calling of the constitutional convention. Primarily the inability of the state to function effectively or democratically. No solutions have been found to permit rule by the majority, or to provide a legislature having the desire and the ability to solve the serious fiscal problems of the state." <sup>79</sup>

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<sup>79</sup>Charles Adrian and Charles Press, Convention Report, A Resume of Michigan's Proposed Constitution, 1962, (East Lansing: Institute for Community Development and Services, Michigan State University, 1962), p. 49.

In regards to the financial article it was stated in the National Civic Review that "basically its provisions espouse the same conservative emphasis of the (1908) document."<sup>80</sup> Charles Press, Michigan State University political scientist, mentioned during his television series on the new document,

"I think many people have the notion the constitutional convention might solve our financial problems in the state. It's clear that this is not the case. If anything, they've made the possibilities for solving it a little more difficult. That is, they've tended to limit the amount of property tax that can be levied, they have cut out the possibility of a graduated income tax, and they've kept the sales tax at four cents, so that it can only be raised by an additional penny by a vote of the people. So they haven't solved the financial crisis."<sup>81</sup>

Political scientist Albert Sturm maintains that "On the whole, the 1962 constitution is a conservative instrument". He also mentions that,

"It appears significant that many delegates who were elected in districts that had opposed the calling of a constitutional convention and who were personally skeptical of the need for constitutional revision later became vigorous supporters of the new constitution. Such persons doubtless would not have approved a document that departed radically from well-established forms and principles."<sup>82</sup>

## I. DATE OF SUBMISSION

Partisanship is seen also in the selection of a date for submission to the voters of the proposed constitution. Section 4, Article XVII of the 1908 Constitution provided that,

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<sup>80</sup>"Con-Con Sets Finance Provisions," National Civic Review; LI (July, 1962), p. 393.

<sup>81</sup>Convention Report, op. cit., p. 27.

<sup>82</sup>Sturm, op. cit., p. 279.

"Any proposed constitution of amendments adopted by such convention shall be submitted to the qualified electors... on the final Monday in April following the final adjournment of the convention; but, in case an interval of at least 90 days shall not intervene between such final adjournment and the date of such election, then it shall be submitted at the next general election."

Early in the Convention, Republican Delegate Eugene Wanger requested Michigan Attorney General Paul Adams, a Democrat, to issue an opinion interpreting the constitutional provisions. Adams ruled that the ratification vote would take place on April 2, 1962, if the Convention finished its work 90 days prior to April 2. If the Convention adjourned before April 2, but not 90 days before April 2, then the election would be held on November 6, 1962. If, however, the Convention adjourned sometime in 1962 after April 2, the election would not be held until April 1, 1963. Adams' rationale was that 90 days would intervene between a May adjournment, for instance, and the following April, so the election would have to take place at the following April election.<sup>83</sup>

At first, the Convention leaders sought to live up to the terms of Adams' opinion. On December 6, 1961, the Convention voted to set a March 31, 1962, adjournment date, so that the ratification vote could take place in November, 1962.<sup>84</sup> However, it was not too long after the Convention's Christmas break was over, that the delegates realized that they could not meet a March 31 deadline. Such being the case,

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<sup>83</sup>Letter from Attorney General Paul Adams to Delegate Eugene Wanger, November 20, 1961.

<sup>84</sup>Michigan Journal, Number 37, December 6, 1961, p. 190.

Rules Committee chairman Van Dusen gave appearances of a willingness to accept the fact that the ratification vote would not come until April, 1963. Van Dusen said, "The feeling is that the attorney general is sufficiently right in his opinion."<sup>85</sup> But the Republican delegates soon began to clamor for a November, 1962 vote on the new constitution. Republican George Romney had committed himself to become a candidate in the November gubernatorial race, and some Republican delegates felt that with the new constitution as a running mate, Romney would stand a much better chance of being elected. It was also argued that the higher vote turnout of the November, 1962, election would probably help in securing a majority vote for the constitution.<sup>86</sup>

On April 12, the Convention decided to end its regular sessions on May 11, and then return for an August 1 session in which minor details in the document could be altered. Sine die adjournment would be declared August 1.<sup>87</sup> The August date was chosen because it fell ninety days ahead of the November election. Election law in Michigan requires that the ballot for a statewide election must be in its final form ninety days prior to the election. On April 13, President Nisbet appointed a select committee of lawyer-delegates of both parties to investigate methods of securing a judicial decision requiring the secretary

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<sup>85</sup>The Ann Arbor News, February 27, 1962, p. 6.

<sup>86</sup>Sturm, op. cit., p. 270.

<sup>87</sup>Michigan Journal, Number 120, April 12, 1962, pp. 941-942.



of state to place the question on the November ballot. As first mandamus procedures were considered,<sup>88</sup> This method was rejected because action could not commence before the sine die adjournment. The committee agreed that their best hope would be to secure a declaratory judgment from the Supreme Court overturning the Adams ruling. Van Dusen, who also was the chairman of this select committee, now maintained that if the convention declared its wish that the document go to the people for ratification in November, the Supreme Court could hold that this election date was legal and proper, the 1908 Constitutional provision notwithstanding.<sup>89</sup> On May 3, Van Dusen solicited the aid of Governor Swainson, the Democratic nominee opposing Romney for the governorship in November. If the Governor intervened in the legal action, the matter could go directly to the Supreme Court for immediate determination. Otherwise, the matter would go first to a circuit court, and then it would be appealed to the Supreme Court, a time consuming process.<sup>90</sup> On May 8, the Governor said "No" to Van Dusen's group. Swainson indicated that the question was not of sufficient importance to be taken directly to the Supreme Court. He also said that there was no compelling reason why the vote had to be before April, 1963.<sup>91</sup>

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<sup>88</sup>Ibid., Number 121, April 13, 1962, p. 967.

<sup>89</sup>The Ann Arbor News, May 4, 1962, p. 7.

<sup>90</sup>Gongwer Report, Number 136, May 3, 1962.

<sup>91</sup>The State Journal (Lansing), May 8, 1962, p. 10-A.

Therefore, action had to commence in the circuit courts. On May 9, a Convention vote of 82-36 authorized President Nisbet to file suit against Secretary of State James Hare in the Ingham County Circuit Court asking for a declaratory judgment. Four Democrats joined seventy-eight Republicans for the majority on the vote; two Republicans joined thirty-four Democrats in the minority.<sup>92</sup> The Republicans began their suit realizing that a favorable decision would have to be handed down by the Supreme Court ninety days before the November election if the question was to be placed on the November ballot. The Attorney General's office, now under newly-appointed Democrat Frank Kelly, defended Hare and the Adams ruling; the Attorney General requested a dismissal of the suit, on the grounds that no controversy existed. The Ingham County Circuit Court Judge Sam Street Hughes, generally considered a Republican, handed down a ruling favoring the Republican plan of having a November ratification vote by throwing out Kelly's request for a dismissal. However, the Attorney General immediately filed for an appeal of this ruling by the Supreme Court. The Court granted the appeal.<sup>93</sup> Ninety days are allowed for preparation of appellate briefs to the Supreme Court. By not taking immediate action in preparing a brief, the Attorney General's office let the time pass, so that no decision could be reached prior to August 8, ninety days before the November

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<sup>92</sup>Michigan Journal, Number 135, May 9, 1962, p. 1295.

<sup>93</sup>Sturm, op. cit., pp. 271-272.

Election.<sup>94</sup> On August 1, the delegates realized that the November vote was doomed, and they amended the schedule, to provide for an April 1, 1963 ratification vote.<sup>95</sup>

## J. CAMPAIGN FOR RATIFICATION

There was an eight month span of time from the sine die adjournment until the ratification vote. For a large part of that period the Michigan political scene was preoccupied with the gubernatorial race between Romney and Swainson. The constitutional convention issue was not a major issue in that campaign. In any event, the Republican and Democratic parties and candidates did continue to take the stands which their delegates took on the document at the Convention. On June 2, 1962, Governor Swainson issued a statement declaring his intent to fight the document. He said,

"The great hopes held out for the convention were ignored. The proposed constitution runs counter to everything the Democratic Party has stood for."<sup>96</sup>

For taking his stand against the document, Swainson was heavily criticized by the press. An Editorial in the Ann Arbor News indicated the role that the newspapers would be playing in the coming elections. The Editorial stated,

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<sup>94</sup>The State Journal (Lansing), July 24, 1962, p. 7-A.

<sup>95</sup>Michigan Journal, Number 137, August 1, 1962, pp. 1346-1347.

<sup>96</sup>The Detroit Free Press, June 3, 1962, p. 1.

"To outsiders not familiar with Michigan politics, Governor Swainson's opposition to ratification of the proposed new state constitution might look like an act of political courage... But Swainson is going to have trouble convincing anyone that his opposition to ratification is based on anything but plain political expediency... A major reason for Governor Swainson's opposition to ratification is that State AFL-CIO President August F. Scholle apparently has a dislike for George Romney and regards a vote for ratification as a vote for Romney. By blindly following Scholle's emotional leadership, Swainson is disappointing voters who thought at times during the past year that Swainson was trying to be governor of all the people, not just of those who contribute funds to the unions' Committee on Political Education. Swainson seems to have forgotten what would happen to Michigan's morale and to its standing as a progressive industrial state, if its voters threw away their new constitution and kept a basic law of pre-World War vintage." <sup>97</sup>

Disregarding any such criticism, the 1962 Democratic State Convention passed a resolution attacking the new constitution. After listing eight main objections to the document the party urged a "no" vote on the document. <sup>98</sup>

During his campaign George Romney supported the work of the Convention. He dismissed Swainson's opposition as being "politics", saying,

"By attacking the proposed new constitution, (the Democrats) have substituted 'partisan politics' for support of much needed reforms in State Government... (Democratic charges are) glittering generalities. The new document represents a definite advance." <sup>99</sup>

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<sup>97</sup>The Ann Arbor News, June 5, 1962, p. 1.

<sup>98</sup>Democratic State Convention, "Platform and Resolutions of the Democratic Party of Michigan," Adopted August 25, 1962, at Grand Rapids, Michigan, pp. 27-28.

<sup>99</sup>The Detroit Free Press, June 3, 1962, p. 1.



The Republican Party platform contained a statement urging ratification of the constitution. Listing eight "improvements", it said,

"The Republican Party pledges an all-out effort to bring about the adoption of the new state constitution. We believe the adoption of the new constitution is a necessary and vital step towards a greater Michigan." <sup>1</sup>

An intensive gubernatorial campaign was climaxed on November 6, as over 2,700,000 Michigan voters cast their ballots. Convention Vice President George Romney emerged victorious defeating Governor Swainson by 80,000 votes. Romney's victory was not attributed to factors involving the constitutional convention. However, Romney's victory was regarded as vitally important for the campaign for ratification. As Romney himself observed after his victory, "one of the most meaningful results of the election should be the boost it probably will give toward public approval of the...new constitution..." Without Romney in the Governor's chair, proponents of the new constitution felt they would not have a leader in their ratification fight. <sup>2</sup>

Other observers who had felt that the end of the gubernatorial race would spell the end of the Democratic opposition to the document. Such was not the case. The Democratic Party's February, 1963, convention passed a resolution that began with a succinct statement,

"The Democratic Party of Michigan urges voters to vote 'NO' on the proposed constitution because it would be far

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<sup>1</sup>Republican State Convention, "1962 Republican Party Platform-Michigan," Adopted August 25, 1962, at Detroit, Michigan, p. 2.

<sup>2</sup>The State Journal (Lansing), November 8, 1962, p. 18-A.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that proper record-keeping is essential for transparency and accountability, particularly in financial matters. The text suggests that organizations should implement robust systems to track and document every aspect of their operations.

2. The second section addresses the challenges associated with data management and security. It highlights the need for strong cybersecurity measures to protect sensitive information from unauthorized access and breaches. The author notes that as technology advances, the risk of data theft and cyberattacks increases, making it crucial for organizations to stay vigilant and invest in the latest security solutions.

3. The third part of the document focuses on the role of leadership in driving organizational success. It argues that effective leaders must possess strong communication skills and the ability to inspire and motivate their teams. The text provides several examples of successful leaders and their strategies, emphasizing the importance of clear vision and strategic planning.

4. The fourth section discusses the impact of external factors on organizational performance. It explores how economic conditions, market trends, and regulatory changes can influence a company's operations and profitability. The author suggests that organizations should conduct regular market research and stay informed about industry developments to anticipate and respond to these external influences effectively.

5. The final part of the document concludes with a call to action, urging organizations to embrace change and innovation. It stresses that in a rapidly evolving business environment, the only way to remain competitive is by continuously learning and adapting. The author encourages leaders to foster a culture of innovation and encourage their employees to think creatively and take initiative.

worse for the State of Michigan than the present constitution." <sup>3</sup>

Standing side-by-side with the Democrats in opposing the new constitution was the Michigan AFL-CIO. Other organizations opposing ratification were State Employees, and the NAACP.

The proponents of the document were able to secure endorsements from several influential groups in the state. The Farm Bureau, the Chamber of Commerce, the League of Women Voters and the Michigan Education Association all supported the new constitution. No daily newspaper in the state took an editorial stand opposing the document.

On the April 1 ballot, along with the constitution question, were ten statewide election races. Two supreme court justices and eight officials of state educational bodies were elected, among them Stephen Nisbet--a Trustee of Michigan State University. Although the supreme court contests appeared on the ballot as non-partisan contests, they were probably subjected to more party interest than the other eight partisan races. Also, in Detroit and some other Michigan cities, local tax issues were of definite importance to voters. All-in-all, there was a higher than usual public interest in this Spring election. And the voters came to the polls in record Spring election numbers, over 1, 600, 000 ballots being cast. The new constitution was ratified by margin of less than 8, 000 votes--less than .5 per cent of the votes cast.

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<sup>3</sup>Democratic State Convention, "Resolution Urging 'No' Vote on Proposed Constitution," adopted February 2, 1963, at Grand Rapids, Michigan.



The election was so close that one newspaper greeted its morning-after readers with the headline "Constitution Defeated".<sup>4</sup> The results were not graciously accepted as defeat by the Democrats. The Democratic State Central Committee demanded a recount of the election returns. The recount did not alter the result.

Political scientist David A. Booth illustrates the partisan nature of the balloting. He says,

"The campaign preceding the vote was intensely partisan, in contrast to the 1961 referendum, which was on the question of calling a constitutional convention. In light of the campaign, it was hypothesized that Democratic counties would oppose adoption, and that Republican counties would support adoption. The (election) data... strongly support the hypothesis."

All eleven Michigan counties that Booth designated as Democratic voted against the Document, whereas 35 of 37 counties designated as Republican voted for the new constitution.<sup>5</sup>

## K. POLITICIANS OBSERVING CONVENTION

### PARTISANSHIP

At the conclusion of this thesis, I will indicate the factors which my comparative presentation reveal to have been responsible for the particular partisan nature of each of the five state constitutional conventions. However, at this point I look to the assessment by on-hand

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<sup>4</sup>Michigan State News, April 2, 1963, p. 1.

<sup>5</sup>David A. Booth, "Michigan's New Constitution", Southwestern Social Science Quarterly, forthcoming.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. This is essential for ensuring transparency and accountability in the organization's operations.

2. The second part of the document outlines the various methods used to collect and analyze data. These methods include surveys, interviews, and focus groups, each with its own strengths and limitations.

3. The third part of the document describes the process of identifying and measuring key performance indicators (KPIs). This involves selecting metrics that are relevant to the organization's goals and objectives, and then establishing a system for tracking and reporting these metrics.

4. The fourth part of the document discusses the importance of communication and collaboration in the implementation of any project or initiative. This involves ensuring that all stakeholders are kept informed and involved throughout the process.

5. The fifth part of the document describes the process of evaluating the effectiveness of the organization's performance. This involves comparing actual results against targets and identifying areas for improvement.

6. The sixth part of the document discusses the importance of continuous improvement and learning. This involves regularly reviewing and updating the organization's processes and procedures to ensure they remain effective and efficient.

7. The seventh part of the document describes the process of implementing change management. This involves identifying the need for change, developing a plan, and then communicating and supporting the change throughout the organization.

8. The eighth part of the document discusses the importance of risk management. This involves identifying potential risks to the organization's success and developing strategies to mitigate these risks.

observers of the partisanship at the Michigan Convention. My examination of the Convention demonstrates that the Convention began as a bipartisan adventure, and that it ended in an atmosphere of extreme partisanship. Republican State Chairman Van Peursesem said that the Republican majority gave credence to Democratic demands early in the Convention because the leading Republican delegates were not strongly identified with their political party.<sup>6</sup> On the other hand, Democratic State Chairman John J. (Joe) Collins claimed that the majority gave in to the Democratic demands only so they could hold the Democrats responsible for the Convention's actions.<sup>7</sup>

Why did partisan politics enter into the Convention deliberations? Republican Delegate James Pollock, writing in the Summer of 1962, said, "The party split at the end of the Convention is to me still incomprehensible."<sup>8</sup> Van Peursesem claims that partisan politics entered the Convention because the thinking of the Democratic delegates was controlled by the AFL-CIO. And, when the Democratic delegates began to vote according to AFL-CIO desires, the Republicans had to organize to combat the votes.<sup>9</sup> However, the major reason most often cited by members of both parties was the fact that several delegates,

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<sup>6</sup>Interview with Republican State Central Committee Chairman, George Van Peursesem, June 19, 1962.

<sup>7</sup>Interview with Democratic State Central Chairman, John J. Collins, May 24, 1962.

<sup>8</sup>Pollock, op. cit., p. 25.

<sup>9</sup>Interview with George Van Peursesem, June 19, 1962

notably George Romney, began campaigning for elective office before their term as delegate ended. George Romney announced his candidacy in February, 1962, three months before the first adjournment, five and one-half months before the sine die adjournment. Republican Delegate J. Harold Stevens claimed that as soon as the Democrats "got a whim" that Romney might run they forced him to play the role of a candidate by constantly putting pressure on him.<sup>10</sup> This resulted in partisanship. President Nisbet said that "the Romney situation has brought more political implications into the convention than we expected."<sup>11</sup> During the May 11 debates, Democrats spoke favoring a constitutional provision prohibiting delegates at future conventions from running for elective office for a year after the sine die adjournment of the convention. Democratic Delegate Lee Walker said that the fault of the Convention's party split lay with delegates becoming "candidates openly or furtively campaigning for office."<sup>12</sup> The Democrats generally feared that if they worked with the Republicans and with Romney, they would only be helping Romney in his campaign against Governor Swainson. It appears that both sides sought short-run political advantages from the Convention, and they were willing to sacrifice Convention unity to arrive at the advantage.

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<sup>10</sup>Interview with J. Harold Stevens, May 25, 1962.

<sup>11</sup>The New York Times, February 4, 1962, p. 52.

<sup>12</sup>Gongwer Report, Number 141, May 11, 1962.

## II. NEW YORK

### A. CHOOSING CONVENTION OFFICIALS

New York's fifth constitutional convention convened in April, 1938, and deliberated until late August. From the moment that the party organizations knew there would be a convention they sought to control it. Following the delegate elections victory for the Republicans it became apparent that New York's convention would be a "Republican" convention. Ninety-one Republicans, seventy-six Democrats, and one American-Laborite were elected to sit in the convention.

Both major parties held meetings to discuss convention matters prior to the start of the convention. The meetings were held by the state party organizations, and the object of the meetings was to determine party strategy at the conventions. As early as February, 1938, the state Republican committee met to determine which delegates would be placed in roles of leadership at the convention. The Republican party leaders denied what was happening and instead claimed that "no action should be taken or recommendations made regarding the constitutional convention, inasmuch as the delegates were duly elected by the people and will organize and carry on the business of the convention by themselves."<sup>1</sup> As early as February 4, Judge Frederick Crane was singled-out to be the President of the convention. Crane was a calculated,

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<sup>1</sup>The New York Times, March 11, 1938, p. 6.

not an accidental, choice. His selection came because he was a man of high reputation, a Republican of long standing, somewhat above politics in that he was a judge, and he was a delegate who could serve well as a "front man".<sup>2</sup> The State Republican organization was not without its say in the making of other selections, although they did work closer to the delegates as the convention date drew nearer.

The same procedures were also in evidence with the Democratic party organization. The New York Times reported on March 28:

"Agreement on Senator Robert F. Wagner for Democratic leader of the coming constitutional convention was reached yesterday at a conference between Governor Lehman and Postmaster General Farley. Mr. Farley acted in his capacity of State Chairman after consultation with party leaders and convention delegates."<sup>3</sup>

As the method of selecting the leaders by state party organizations was conducive to the interjection of highly partisan objectives into the choices, so it follows that the results were highly partisan leaders. Judge Crane, claim O'Rourke and Campbell,<sup>4</sup> made an "enviable" record as President, yet as mentioned, his choice was not at all motivated by prophecy that he would make an "enviable" record. The Republicans chose William F. Bleakley as the convention's first vice president. Bleakley was the Republican candidate for governor in 1936.

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<sup>2</sup>Vernon A. O'Rourke and Douglas W. Campbell, Constitution-Making in a Democracy (Baltimore: Johns Hopkins Press, 1943), p. 99.

<sup>3</sup>The New York Times, March 28, 1938, p. 32.

<sup>4</sup>O'Rourke, op. cit., p. 100.

In gaining this convention office for him, his supporters hoped to put him in a favorable light for again winning the party nomination for the governorship in 1938.<sup>5</sup> The Republican floor leadership went to Perley Pitcher, who served the state senate as Minority Leader in the term completed just before the convention started. Another Republican, former senate leader George Fearon, was denied the floor leadership as objections to him were raised by the Republican State Committee.<sup>6</sup> The Republican state organization also chose the secretary of the convention.<sup>7</sup>

The Democrats wasted no time in getting their "big guns" into position. United States Senator Robert Wagner was elected second vice president of the convention. Wagner was chosen for reasons other than his high political position. The New York Times mentions the circumstances of the appointment:

"The selection of Senator Wagner, who did not seek the post was regarded as natural. With little possibility that the Democratic delegates, among whom are former Governor A. E. Smith and Surrogate James Foley, will be united on all proposals, Senator Wagner was believed to have the best chance of preventing an open break. He always has been on friendly terms with Mr. Smith and Surrogate Foley, dating back to the time when the three were the leading Democratic members of the legislature."<sup>8</sup>

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<sup>5</sup>Edwin S. McIntosh in The New York Herald Tribune, April 5, 1938, as quoted in O'Rourke, op. cit., pp. 99-100.

<sup>6</sup>O'Rourke, op. cit., p. 100.

<sup>7</sup>The New York Times, April 4, 1938, p. 1.

<sup>8</sup>Ibid., March 28, 1938, p. 32.

Although the party gave Wagner the added honor of being its convention floor leader, two other delegates were assigned floor leadership roles. These two men were also experienced political fighters. One was the majority leader in the state senate, the other was the minority leader in the assembly.<sup>9</sup> Al Smith was made honorary president of the convention.<sup>10</sup> This was a safe position to give to the former governor. He was given an honor he couldn't very well refuse, and having that honor he could not expect a more meaningful convention post to be given him.

#### B. PATRONAGE

In 1938, the Democrats controlled the state senate. At the time the legislature passed judgment on an appropriation bill for the convention, it was known that the convention majority would be Republican. The Democratic senators had demanded that the Democrats be given a sufficient share of convention patronage before they would agree to ratify the appropriation bill.<sup>11</sup> The convention employed a staff numbering nearly 350. The staffing of the convention involved expenditures of \$400,000.<sup>12</sup> Two hundred sixty-nine of the jobs were clerical.<sup>13</sup>

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<sup>9</sup>O'Rourke, op. cit., pp. 100-101.

<sup>10</sup>The New York Times, April 5, 1938, p. 1.

<sup>11</sup>Ibid., February 5, 1938, p. 32.

<sup>12</sup>O'Rourke, op. cit., p. 102.

<sup>13</sup>Citizens Research Council of Michigan, "A Comparison of the Organization and Procedures of Six State Constitutional Conventions," (Detroit: Con-Con Research Paper Number 1, September, 1961), p. 17.



The New York Convention utilized the largest staff of any convention studied. With so much patronage to be handed out, Crane created a committee on minor offices. The committee was composed of six Republican and three Democratic delegates; all nine were active in politics. Crane announced that no one already on the state payroll could be on the convention payroll.<sup>14</sup> The committee on minor offices handled the task of giving each delegate a clerk or stenographer, picking committee clerks and filling other minor posts.

Regardless of the assurances given the Democrats in the State Senate, the Republicans took a "lion's share" of the convention patronage.<sup>15</sup> Selections of job holders were not made exclusively by the convention committees. The Republican party organization had a voice in the choices. In handing out the awards to the party faithful, much intra-party bickering was noted.

"The Republican State Executive Committee wrangled all day over which clerk should come from which county, or whether one county was getting enough, or possibly too much. Meanwhile anxious candidates haunted hotel lobbies."<sup>16</sup>

That the staff of the convention was, for the most part, selected by the state organization of the convention's majority party is indicative of the convention's reliance upon party values in its decision making.

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<sup>14</sup>O'Rourke, op. cit., p. 102.

<sup>15</sup>Idem.

<sup>16</sup>The New York Times, April 19, 1938, p. 3.

## C. COMMITTEES AND RULES

The New York convention utilized thirty-four committees. Twenty-nine of them were substantive committees, five were procedural.<sup>17</sup>

The number of committees represented an expansion of four over the number of committees used in the 1915 convention. This was the largest number of committees utilized by any of the five conventions studied. The rule of the convention designated that the president of the convention would appoint the members and the chairmen of the committees.<sup>18</sup> The selection of the chairmen was politically motivated. All thirty-four chairmen were Republicans.<sup>19</sup> With the exception of President Crane each of the eight Republican-at-large delegates (15 of the 168 delegates were elected from the state at-large) was given the chairmanship of a substantive committee.<sup>20</sup> Crane was the unofficial chairman of the Rules Committee.<sup>21</sup> In choosing the chairmen, Crane and the vice presidents consulted Republican leaders inside and outside of the convention.

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<sup>17</sup>Frank P. Grad, "Organization and Method of Drafting Services at Constitutional Conventions", (National Municipal League-Legislative Drafting Research Fund Workshop, Phoenix, Arizona, November 14, 1960, pp. 9-10. Prepared as part of the Constitutional Studies Program of the Columbia University Legislative Drafting Research Fund.

<sup>18</sup>Convention Rule Number 2. See State of New York, Journal of the Constitutional Convention of the State of New York 1938, Appendix Number 2, p. 1. (Hereinafter referred to as New York Journal).

<sup>19</sup>O'Rourke, op. cit., p. 101.

<sup>20</sup>Infra. p. 171.

<sup>21</sup>New York Journal, April 18, 1938, p. 23.

The Republican State Committee had a prominent voice in the selections. With but few exceptions, chairmanships went to delegates with long and faithful service to the party. The chairmanship of what was considered to be the most important committee, the Industrial Relations and Workmen's Compensation Committee, went to William Bleakley, the 1936 Republican gubernatorial candidate.<sup>22</sup>

The convention's committees had no regular staff consultants. No technical drafting assistants were employed. The work of the committees seemed to be more of a "weeding-out and killing-proposals" process than one of constructively perfecting proposals. Technical assistance could therefore be done without.<sup>23</sup>

The convention's rules of procedure, identical to the state senate rules, insured the controlling of the convention by a dominant group of Republicans. Grad describes the general process for the adopting of a proposal:

"Upon introduction, a proposition was read twice--by title the second time--and referred to a standing committee. Upon a favorable report, the proposition was committed to the Committee of the Whole where, having been printed and placed on the desks of the members, it was debated and voted on. If agreed to in the Committee of the Whole, it was then referred to the Committee on Revision and Engrossment, and after report from that Committee "as correctly revised and engrossed", it was advanced for third reading and vote by the convention."<sup>24</sup>

<sup>22</sup>O'Rourke, op. cit., p. 101-102.

<sup>23</sup>Grad, op. cit., p. 13.

<sup>24</sup>Idem.

The convention rules gave the committees extreme powers. The proposed amendments the convention agreed to could not contain any changes in the constitution of 1895 unless the committee in charge of the amendment agreed to the change. Rule Thirty-two in part read:

"When a committee has reported that no amendment should be made to the provisions of the existing Constitution relating to any specified subject, and such report is agreed to, all propositions for constitutional amendment relating to that subject which have been referred to that committee shall be considered as rejected."<sup>25</sup>

Significance is then given to the fact that the Republicans appointed thirty-four committees with heavily Republican majorities in most cases. The appointing group gave the Party a majority of one on only four substantive committees. These were the relatively unimportant Canals, Militia, and State Institutions Committees and the somewhat controversial Suffrage Committee. Heavy majorities of eleven and ten to six were the general rule for the more important committees. The ninety-two Republicans received 254 appointments or an average of 2.76 assignments each. The seventy-five Democrats received 153 appointments or only 2.04 assignments each. The lone American Labor delegate had two assignments.

#### D. PARTY ACTIVITY

The convention was conceived in a political vacuum, yet born to politically active parents. The convention was nursed in partisanship;

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<sup>25</sup>Convention Rule Number 32, See New York Journal, Appendix 2, p. 9.

so also it was raised. I have set forth the partisan manner of convention organization. The motivations behind these partisan activities are explained in part by the New York Times. On April 5, the newspaper reported:

"It is no secret that the Republicans hope to make the constitutional convention their proving ground for issues in the state campaigns this autumn. Nor is it a secret that the party's leaders hope that some man may emerge who, throughout the months the convention will be in session, will have proved of sufficient stature to become a leader in the gubernatorial campaign this year, when the state will elect its first governor with a four year tenure." <sup>26</sup>

The April 10 edition of the Times reiterated the view:

"The Republicans are preparing to use the convention as a training ground for men who will be called to the party colors this autumn to fight in the campaign. They are hopeful that in addition to turning out a good constitution, reflecting credit to their party, the meetings may develop potential candidates for the elective offices on their state ticket." <sup>27</sup>

The Republicans, beaten in statewide campaigns by liberal Democrats, sought to use the convention in order to create a new image for the party. O'Rourke and Campbell describe the two parties' strategy:

"The Republican problem... was to assume the mantle of liberalism so as to increase the party's following among urban voters. But this must be accomplished without antagonizing conservative up-state supporters--a task requiring an ingenuity Republican leaders had been innocent of for many years. The Democrats, on the other hand, since the first administration of Alfred E. Smith, could point to a fairly consistent record of liberal performance. Happily shorn of responsibility for the convention's work, though still the majority party in the state, the Democrats found it

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<sup>26</sup>The New York Times, April 5, 1938, p. 1.

<sup>27</sup>Ibid., April 10, 1938, Section IV, p. 10.

obviously to their advantage to rely chiefly on a policy of obstruction. If successful, such a policy would damage the reputation of the opposition leadership now making a bid for control of the executive offices of the state. Further, if carefully engineered, it would expose the inherent conversion of large segments of the Republican party's following. The latter objective was perhaps the most consistent aim of the Democratic leadership during the course of the convention. But, in matters of detail, the programs of both parties were ad hoc, fashioned by the political forces of the moment and finding common roots in the desire to win public support."<sup>28</sup>

The parties were not unified groups; there was ample factionalism present. But the advantage was in the hands of the minority when it came to tactics.

"The tactics of the minority were both patent and successful. By introducing fairly popular liberal proposals and then publicizing threats to discharge hesitant Republican committees, the Democrats immediately put the majority party on the defensive, forcing it to justify its opposition to proposals for which the Democrats would get the credit. Moreover, the nature of some of these measures was calculated to arouse the instinctive conservatism of many up-state Republicans, revealing to the voters the tenuousness of Republican liberalism and plaguing those leaders desirous of associating the party with an independent liberal program. The frequent and often violent disputes within the Republican party occasioned by some of these bills attest the success of Democratic strategy."<sup>29</sup>

However, the Democrats were also hurt by intra-party fighting.

"Factional strife was by no means absent within the Democratic ranks. The conflict between Senator Wagner and ex-Governor Smith was nearly always in evidence. New Deal and anti-New Deal Democrats frequently burst into verbal battels on the convention floor. Tammany sometimes split on social questions, but Mr. Smith could always rely on a

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<sup>28</sup>O'Rourke, op. cit., pp. 116-117.

<sup>29</sup>Ibid., p. 118.

minimum of eight or ten anti-New Deal Democratic votes, sufficient at times to control many important decisions. As early as May 9, Senator Wagner was laboring to weld his party together sufficiently to assure a united front in dealing with the economic issues before the convention. So sharp was the conflict on questions of social principle that his hopes were never fully realized. Only because the Democratic insurgent block was smaller than the Republican one is it possible to conclude that the minority party was better organized and its leadership more effective."<sup>30</sup>

The conservative forces of the convention, both Democratic and Republican, controlled the policy of the convention; but inter-party strife was the means of reaching that policy. Frank P. Grad simply states that "party politics dogged the convention all the way."<sup>31</sup> O'Rourke and Campbell mention:

"Delegates and disinterested observers alike are ready to admit that party politics, factional politics, and pressure politics were forces participating in every important decision of the... convention...."<sup>32</sup>

Both Republican and Democratic leaders outside of the convention tried to exert their influence on the policy making of the convention. Governor Lehman sent four messages concerning the substantive content of the convention's amendments. The Democrats held periodic caucuses from the start of the convention. The Republicans did not develop the caucus as a tool of strategy until late in June. The innovator of the Republican caucus was the state party chairman, William Murray.<sup>33</sup>

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<sup>30</sup>Ibid., pp. 121-122.

<sup>31</sup>Grad, op. cit., p. 12.

<sup>32</sup>O'Rourke, op. cit., p. 150.

<sup>33</sup>Ibid., pp. 124-125.

## E. RESUME OF THE DOCUMENT

The constitutional convention of New York was charged with the responsibility of reviewing completely the state's basic law. This the delegates did. However, the results of their efforts did not measure up to a complete revision, or even a major revision of the basic law.

O'Rourke and Campbell describe the results:

"The tone of the convention was that of a middle-of-the-road conservatism. Despite remarks about the full power of the convention to make and un-make, the convention itself was not disposed to view its mandate in those terms. . . . Changes in detail but no substantial deviation from the existing setup suited the mood of the convention.

"Many 'non-political' interest groups sought to make the reorganization of the legislature an issue. A unicameral legislature, elected by proportional representation, was urged upon the convention. (This was not adopted). . . Several delegates introduced proposals for electing the Assembly by proportional representation. The convention voted instead to ban P. R. for cities, the only place where it was in use or seriously considered.

"Very little attention was paid to giving the electorate more direct access to their government. Nor was more interest shown in the initiative, referendum and recall than in unicameralism. . . .

"In matters referred to the Bill of Rights Committee, an equally negative selectiveness prevailed. Of sixty proposals referred to it, nine were reported out and seven adopted. These consolidated existing statutory ground, rather than breaking new. . . .

"On the organization of the legislature, twenty-nine delegates introduced forty-three proposals, half of which were concerned with reapportionment--a matter which was handled virtually outside the convention by the majority party."<sup>34</sup>

The prophecy of a post-election day observer came to bear true

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<sup>34</sup>Ibid., pp. 211, 212, 214.



meaning if we consider that a convention is called to revise the substance of the basic law. The observer said, "The Republicans have won; the convention will do little."<sup>35</sup>

#### F. TIME AND METHOD OF SUBMISSION

Although the extent of the revision was not far reaching, the delegates did write an entire constitution. The convention chose not to submit their work as a single document. Nine amendments were submitted for voter scrutiny in November, 1938. The decision to submit nine amendments rather than one complete document was tempered by the results of the public vote on the 1915 constitutional convention's constitution. That document was submitted for a single "Yes" or "No" vote. Various interest groups that opposed particular items in the proposed constitution were able to unite their opposition and defeat the entire document. As early as April, President Crane indicated the wisdom of not repeating the 1915 experience.<sup>36</sup> Such was the belief of most of the delegates during the final sessions of the convention.

However, in a final flurry of partisanship, the method of submission did become a convention issue. The Democratic leaders were in favor of submitting eight amendments to the public for consideration. On August 19, the substantive issues of the convention had been resolved. On that afternoon, the Republican caucus voted 60-10 to submit the

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<sup>35</sup>Ibid., p. 92.

<sup>36</sup>The New York Times, April 7, 1938, p. 30.

document in a single package.<sup>37</sup> The ten votes against this arrangement came from New York City delegates who did not want to be compelled to campaign for parts of the "non-progressive" document, notably the ban on the use of Proportional Representation for voting in city elections. On August 22, Warren Moscow, writing in the New York Times, perceived the strategy of the method of submission question as a strictly political one. He wrote:

"The present tentative plan is to submit the constitution to the voters as an indivisible document.... Should it be decided to submit some of the more controversial articles separately to the voters, it is expected the P. R. and reapportionment amendments will be lumped in one proposal. By that method the voters of New York City would have to accept their increased districts under reapportionment by killing proportional representation, or, in order to save proportional representation, they would have to kill reapportionment."<sup>38</sup>

On August 23, New York City Mayor La Guardia made a plea to the convention for submission of separate amendments.<sup>39</sup>

A special committee on the time and manner of submission was appointed under the authorization of the convention by President Crane. City Republicans Crane, Abbot Low Moffat, and up-state Republicans Pitcher, McGinnies, and Piper served on the committee along with City Democrats Wagner, Al Smith, John Bennett, and Poletti.<sup>40</sup>

<sup>37</sup>Ibid., August 20, 1938, p. 1.

<sup>38</sup>Ibid., August 22, 1938, p. 2.

<sup>39</sup>Ibid., August 23, 1938, p. 1.

<sup>40</sup>New York Journal, August 2, 1938, p. 347.

On August 26, the committee issued its report recommending the submission of eight proposals: 1) an omnibus proposal covering many undisputed amendments, 2) the reapportionment amendment, 3) railroad grade crossing provision, 4) housing, 5) judiciary, 6) the ban on P. R., 7) the use of state money for welfare, 8) removing the debt limit on New York City for transit purposes. One of the Republican members of the committee, Pitcher, was ill at the time of the issuing of the report. The two other upstate Republicans opposed the report. Two City Republicans and the four Democrats signed the report.<sup>41</sup> The City Republicans and Democrats were eager for a multiple submission to take place. Therefore, they desired to win extra support for their position. To do this they compromised their position and consolidated some of the amendments so that five items would be submitted to the voters. But a dissident Democrat, Robert Whalen of New York City, then moved for submission of only three amendments. This move infuriated the Democrat-City Republican coalition into action.<sup>42</sup> Whalen's amendment was defeated 108-43.<sup>43</sup> The coalition dismissed their five-item plan, and one modification of the committee report, allowing for an additional amendment--a labor provision, increased the number of amendments submitted to nine. The report, as modified, then passed by a

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<sup>41</sup>Ibid., August 26, 1938, p. 640.

<sup>42</sup>O'Rourke, op. cit., p. 149.

<sup>43</sup>New York Journal, August 26, 1938, p. 645.

105-57 vote.<sup>44</sup> The 1895 constitution provided that the work of the convention would be submitted at the first general election more than ninety days after the adjournment of the convention.<sup>45</sup> Therefore, the nine amendments were submitted to the voters at the November, 1938, election.

#### G. CAMPAIGNS AND RATIFICATION

Six of the nine amendments were adopted. The ones dealing with reapportionment, proportional representation, and the judiciary were defeated. The Republican Party endorsed all the amendments except the one banning P. R. Republican gubernatorial candidate Thomas E. Dewey was also against the judiciary article. The Democrats endorsed all six amendments that were adopted, and they urged "no" votes on the three that were rejected. The reapportionment section was supported by the Republican Party, but Republican voters did not respond to the party position. Up-state voters rejected the amendment by a three-to-two margin. In other instances, the voters followed the party positions.<sup>46</sup>

In spite of the extreme partisan nature of the New York Convention, some consensus was reached by the two parties, and changes favorable to both parties were adopted by the voters.

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<sup>44</sup>Ibid., August 26, 1938, p. 647; See O'Rourke, op. cit., p. 149.

<sup>45</sup>State of New York, Constitution (1895), Article XIX, Section 2.

<sup>46</sup>O'Rourke, op. cit., pp. 230-234.

### III. MISSOURI

#### A. SELECTION OF OFFICERS

The sixth Missouri Constitutional Convention, composed of forty-two Democrats and forty-one Republicans, was called together on September 21, 1943. There were no significant pre-convention meetings of delegates.<sup>1</sup> The selection of officers was a matter of top priority for the first day. Convention Resolution No. 2, introduced by a Republican delegate, called for the selection of a president and two vice presidents, one from each party. A Democratic delegate moved to reduce the number of vice presidents selected to one. If the parties, as represented at the convention, voted as units, the Democrats could have passed the amendment, and elected both the president and the one vice president of the convention. However, the first day of the convention revealed that the delegates were going to participate in a manner above party-line politics. The Democrat's amendment was voted down 29-53. Seventeen Democrats and thirty-six Republicans successfully opposed it.<sup>2</sup>

The presidential race was between three Democrats, Robert E. Blake and Allen Mc Reynolds, both lawyers and at-large delegates,

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<sup>1</sup>Letter from Martin L. Faust, Professor of Political Science, University of Missouri, to Author, May 24, 1962.

<sup>2</sup>State of Missouri, Journal of the Constitutional Convention of Missouri--1943-1944, Number 1, September 21, 1943, pp. 11-12. (Hereinafter referred to as Missouri Journal).

(fifteen of the eighty-three delegates were elected at-large) and Franc L. McCluer, President of Westminster College. Blake was elected on the first ballot. He was the choice of forty-six delegates, thirty-three Republicans and Thirteen Democrats. Mc Reynolds, who previously was a Democratic gubernatorial candidate, received twenty-two Democratic and seven Republican votes. McCluer received seven Democratic votes.<sup>3</sup> The Democrats split their votes, a majority wanting Mc Reynolds, and in doing so left the choice of convention president up to the Republicans. The Republicans chose the man that the two parties had agreed upon to be the fifteenth delegate, and bipartisan slate of at-large delegate. Robert Blake, described as an anti-New Deal Democrat, was placed in the president's chair.

#### B. COMMITTEES

A Republican was given the first vice presidency unopposed; a Democrat, likewise, received the second vice presidency.<sup>4</sup> Resolution No. 2 designated that the president and the two vice presidents serve on a permanent committee on rules and order of business, and that they together appoint four Democrats and four Republicans to serve with them.<sup>5</sup>

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<sup>3</sup> Missouri Journal, Number 1, September 21, 1943, p. 14.

<sup>4</sup> Ibid., pp. 14-15.

<sup>5</sup> Ibid., p. 11.

The committee of eleven thus appointed was chairmaned by Mc Reynolds.<sup>6</sup> On the second convention day, the committee recommended and the convention accepted a committee structure of nineteen substantive and five procedural committees.<sup>7</sup>

Each committee when appointed had an equal number of Republicans and Democrats. Each party had an equal number of committee chairmanships. Convention rules specified that all special committees would be likewise appointed with equal party membership.<sup>8</sup> All committee meetings were open to the public and the press.<sup>9</sup> These direct bipartisan provisions illustrate the non-party mood of the convention at its beginning stage.

### C. PATRONAGE

Patronage also did not become a tool of partisanship. Each individual delegate was allowed to appoint his own personal stenographer-clerk. Neither this clerk, nor any other convention employee, was to be related "within the fourth degree either by consanguinity or affinity to any delegate...."<sup>10</sup> Therefore, the two parties, through the

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<sup>6</sup>Ibid., p. 16.

<sup>7</sup>Ibid., Number 2, September 22, 1943, pp. 2-5.

<sup>8</sup>Convention Rules, Chapter III, Rule 1. See Missouri Journal, Number 9, October 8, 1943, pp. 5-7.

<sup>9</sup>William L. Bradshaw, "Missouri's Proposed New Constitution", American Political Science Review, XXXIX (February, 1945), p. 62.

<sup>10</sup>Missouri Journal, Number 3, September 28, 1943, p. 14.

delegates, were given equal patronage.

#### D. PARTY ACTIVITY

Party strife did not enter into any early proceedings. However, the start was not completely smooth. President Blake stated:

"The start was, in some respects, not propitious. The delegates had met almost as eighty-three strangers--with the usual mental reservations and suspicions that strangers have toward one another.

"The situation was not improved by the necessity of electing officers. The result was inevitable--many members were disappointed by the result of the elections and became pessimistic. The atmosphere was made worse by the rivalries and jealousies growing out of the appointment of chairmen and members of the committees. The atmosphere was reflected in the newspapers which began to blast the convention."<sup>11</sup>

However, Blake saw the convention as it rose above these petty jealousies and face its task in a united and serious manner. He mentions occurrences that indicate the convention remained above party-line politics:

"Early in the sessions the committee chairmen, in conferences established certain guiding principles which assured a fine tone and level to the proceedings. For instance, they resolved to have no secret meetings or closed meetings. If there was any such, I do not know of it.

"The convention determined to try to get through with no limitations on debates--no gag rule--and, while it was difficult to hold to that resolution at times, it was kept. There was not a member of the convention who, at the end, could complain of not having had free and untrammelled opportunity to voice his views."<sup>12</sup>

Political Scientist Henry J. Schmandt indicates that the convention was held outside of the organized party structures. He says:

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<sup>11</sup>Robert E. Blake and William L. Bradshaw, "The Convention Goes to Work," National Municipal Review, XXXVII (March, 1948), p. 145.

<sup>12</sup>Idem.



"There is little indication that either of the two party organizations made any effort to influence their members who were serving in the organic assembly. During the course of the entire session neither the Republican nor the Democratic state committees made a single official pronouncement with respect to any issue pending before the convention." <sup>13</sup>

He attributes the reason for this to the belief that neither party faced a threat at the convention, there being a completely bipartisan structure to the convention. <sup>14</sup> University of Missouri Political Scientist Martin L. Faust sums up the point I am attempting to make. He says; "Party values did not play a prominent part in the organization and work of the convention." <sup>15</sup>

#### E. VOTE ON DOCUMENT AND METHOD OF SUBMISSION

As the convention started in a bipartisan manner and conducted its work in a manner minimizing party influences, so it adjourned with a non-party emphasis. The final vote on the passage of the document was 68-4 (ten delegates were absent). Two Republicans and two Democrats represented the opposition. <sup>16</sup>

The delegates decided to submit their document to the Missouri

<sup>13</sup>Henry J. Schmandt, "The Personnel of the 1943-4 Missouri Constitutional Convention", Missouri Historical Review, XLV (April, 1951), p. 249.

<sup>14</sup>Ibid., p. 250.

<sup>15</sup>Letter from Martin L. Faust, Professor of Political Science, University of Missouri, to Author, May 24, 1962.

<sup>16</sup>Missouri Journal, Number 214, September 28, 1944, p. 82.

voters in a single package. This decision was reached without one dissenting vote.<sup>17</sup> The committee on ballot and election recommended that the document be submitted to the voters for ratification or rejection on February 27, 1945, at a special election. A Republican delegate, one who had voted against the document, moved to change the date to March 27; his amendment was seconded by a Democrat who had also voted against the document. Their motion was defeated. The February 27 date was then accepted by a 50-3 vote (twenty-nine delegates were absent). Twenty-two Democrats and twenty-eight Republicans were responsible for the favorable vote.<sup>18</sup>

#### F. RESUME OF DOCUMENT

There were several new features in the constitution proposed by the Missouri convention. The executive branch of government was greatly consolidated. The fiscal year was revised, courts were given rule-making powers, and home rule was extended. Changes in educational and taxation articles were also proposed.<sup>19</sup> However, many of the delegates coming to the convention had expected greater changes. There had been great agitation for a short ballot: only the superintendent of education was removed from the ballot. Many wanted a unicameral

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<sup>17</sup>Blake, op. cit., p. 146.

<sup>18</sup>Missouri Journal, Number 215, September 29, 1944, pp. 8-9.

<sup>19</sup>Charlton F. Chute, "The New Constitution of Missouri", State Government, XVIII (February, 1945), p. 112.

legislature; the convention did not pay much attention to those desires. A merit system was highly wished for by some; the convention provided for merit employment practices extending only to state penal and eleemosynary institutions. All the changes were moderate.<sup>20</sup> As one writer put it, the convention produced a document "that was neither reactionary nor strikingly progressive."<sup>21</sup>

On February 27, 1945, the Missouri voters ratified their new constitution. Approval of the document trailed slightly in the rural areas of Missouri, but was heavily favored in Kansas City and St. Louis.<sup>22</sup>

Charlton F. Chute, Director of Research for the Missouri General Assembly, discusses the reasons for the document's acceptance by the public:

"Many factors worked in favor of the adoption of the new constitution. In contrast to the attitude twenty years earlier, the great bulk of the delegates favored the new document and were willing to work actively to secure its adoption. Secondly, the newspapers of the state, particularly those in St. Louis and Kansas City, had long campaigned for needed changes in the constitution. A poll of the press of the state indicated that out of 123 publishers, 106 reported their newspapers to be actively supporting the new constitution. Thirdly, the convention won the support of nearly every statewide organization. The new

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<sup>20</sup>Schmandt, op. cit., p. 250.

<sup>21</sup>Bernard W. Klein, "The Constitutional Development of the General Assembly of Missouri" (unpublished Master's thesis, Political Science Department, University of Missouri, 1954), p. 147.

<sup>22</sup>The New York Times, February 28, 1945, p. 40.

constitution was endorsed by all six living ex-governors and the present Governor, the heads of the Democratic and Republican state committees, the three statewide farm organizations, the teachers' association, organized industry, organized labor, chambers of commerce, professional men's organizations, the League of Women Voters, and the Missouri Municipal League." <sup>23</sup>

#### IV. NEW JERSEY

##### A. OFFICERS

The opening day of the New Jersey convention witnessed the election of convention officers and the adoption of the convention rules of organization and procedure. From convention records, I could only ascertain the party affiliations of fifty-nine of the eighty-one delegates at the convention. Thirty-nine of these were Republicans, eighteen were Democrats, and two were independents. A substantial number of the twenty-two remaining delegates were probably Republicans, as all sources agree that they had a strong majority in the convention.

The convention officers were not in fact chosen on the convention floor. Just how they were chosen, whether by edict of the state political party committees or in caucuses of the delegates, I cannot say. In any event, an "independent Republican", Robert Clothier, President of Rutgers University, was made president of the convention. He, like the other officers, was elected without opposition on the first day of the convention. Republican Amos Dixon was made first vice president of the convention, and Marie Katzenbach, a Democrat, was

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<sup>23</sup>Charlton F. Chute, op. cit., pp. 112, 119.

given the position of second vice president. Republican Oliver Van Camp, who served the New Jersey Senate as its secretary for eighteen years, was made secretary of the convention. He was elected from his county to the convention as a delegate. He resigned that position upon his election as convention secretary.<sup>1</sup>

#### B. RULES AND COMMITTEES

Governor Driscoll had appointed a committee on rules, consisting of seven delegates, a majority of whom were Republicans. The rules of organization and procedure were adopted without a single vote in opposition.<sup>2</sup> Judging the reception the Democrats gave to the rules, I assume that the rules must have been fair to the minority party. The lack of opposition indicates that the Democrats were represented when the rules were prepared.

One Democratic delegate expressed first day doubts over whether the convention would truly be bipartisan. As reported in his Dry Revolution, Diary of a Constitutional Convention, Frank Schlosser said after the first convention day that unless all leading Republicans were absent "the Democrats will have little to do with running the convention, now safely Republican in organization."<sup>3</sup> However, the organization

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<sup>1</sup>State of New Jersey, Proceedings of the New Jersey Constitutional Convention of 1947, I: Record, June 12, 1947, pp. 16, 18, 38, 41. (Hereinafter cited as New Jersey Proceedings).

<sup>2</sup>Ibid., June 12, 1947, p. 36

<sup>3</sup>Frank Schlosser, Dry Revolution--Diary of a Constitutional Convention (Newton, New Jersey: Onnabrite Press, 1960), p. 13.

and the Republican majority was not used as a tool against the Democrats during the convention.

The convention rules provided that the president should appoint the committees of the convention, and also the chairmen of the committees. The rules provided for five substantive committees of eleven delegates each, and four procedural committees of seven delegates each.<sup>4</sup> Most of the delegates were appointed to one committee each. Three delegates, two Republicans and one Democrat, received two appointments. Considering this, the Democratic delegates were treated just as well as the Republican delegates. Of the fifty-five places on the substantive committees, twenty-eight went to Republicans, twelve to Democrats, one to an independent, and fourteen to delegates without ascertainable party affiliation. In turn the Democrats were given a stronger voice on the procedural committees. They held eight of the twenty-eight seats, the Republicans held eleven seats, one went to an independent, and eight were held by delegates of unknown party.<sup>5</sup>

That the convention organization was not used as a tool of the majority is best illustrated by the fact that President Clothier appointed two Democrats to committee chairmanships. One committee was a

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<sup>4</sup>Convention Rules 13 and 14. See: New Jersey Proceedings, June 12, 1947, p. 26.

<sup>5</sup>New Jersey Proceedings, June 18, 1947, pp. 48-49. The party affiliation of twenty-two delegates could not be ascertained by the author, see infra, p. 210.

substantive one, the other was a procedural committee.<sup>6</sup> There was some dissatisfaction aired over the appointments, but the cries of displeasure did not come from Democratic delegates. Schlosser mentions that not one complaint was heard from his heavily Democratic Hudson County delegation.<sup>7</sup>

During the course of the convention, five delegate vacancies occurred, all of them from counties with Republican-controlled delegations. The enabling act provided that the remaining delegates from the county of the vacancy would appoint a new delegate.<sup>8</sup> The Republican delegations in at least two of the five counties chose Democrats to fill the vacancies. One vacancy was filled by a Republican, and the other two were filled by delegates of unidentifiable party affiliation.<sup>9</sup> This vacancy-replacement phenomena supports the view that the convention was not giving prominence to party values, as this phenomena concerns the basic factor of party interests--political office.

### C. PATRONAGE

The New Jersey convention employed only nine persons. Forty-one

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<sup>6</sup>Idem.

<sup>7</sup>Schlosser, op. cit., pp. 22-23.

<sup>8</sup>State of New Jersey, Laws of 1947, Chapter 8, Section 22.

<sup>9</sup>New Jersey Proceedings, June 18, 1947, pp. 53-54, and July 1, 1947, pp. 67-68.

state employees helped the convention in several capacities.<sup>10</sup> The small size of the actual convention staff indicates that the majority party could not use the convention for patronage purposes as was done in New York.

#### D. METHOD OF SUBMISSION

On the matter of the submission of the proposed document to the voters for ratification or rejection, the delegates stood united. The convention enabling act specified that the document would be submitted for public scrutiny at the November, 1947, general election.<sup>11</sup> The delegates, on the other hand, were given a choice of how, whether as a whole or in parts, the document would be submitted. Section twenty-three of the enabling act provides that:

"The convention may frame a constitution to be submitted as a whole to the people for adoption or rejection; or it may frame one or more parts of a constitution, each to be so submitted to the people that they may adopt or reject any part and, if the convention so determines, it may also frame one or more parts to be submitted in the alternatives in order that the people may adopt any of the alternatives or reject any or all of them."

The convention's committee on submission and form resolved on the last day of the convention to submit the document as a single package. Their resolution was adopted by a 75-0 vote of the delegates.<sup>12</sup>

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<sup>10</sup>Citizens Research Council of Michigan, loc. cit.

<sup>11</sup>State of New Jersey, Laws of 1947, Chapter 8, Section 26.

<sup>12</sup>New Jersey Proceedings, September 10, 1947, pp. 931-933.



### E. PARTY ACTIVITY AND FINAL ACTION

Generally speaking, the convention should be viewed as not being dominated by partisan motivations. Frank Schlosser, who indicated on the first day of the convention that the Republicans would be in full control, revealed a different attitude on the last day of the convention. He said simply, "our powers...were enormous; but they were not abused and partisanship found no place in our deliberations."<sup>13</sup>

The convention accepted the document with only one dissenting vote.<sup>14</sup> The dissenter, a Republican, signed the document, indicating that his opposition was not complete.<sup>15</sup>

### F. RESULTS OF CONVENTION WORK

Several of the changes introduced by the convention were significant. New Jersey's judicial system was completely reorganized into a well-defined simple system. The terms of the governor and legislators were lengthened. The executive department was reorganized. The governor was made the only elected executive official. There had been over eighty major state departments; the constitution fixed a limit of twenty major departments. The legislative article and the Bill of Rights were basically unchanged, and the taxation article could not be

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<sup>13</sup>Schlosser, op. cit., p. 245.

<sup>14</sup>New Jersey Proceedings, September 8, 1947, pp. 884-885.

<sup>15</sup>Schlosser, op. cit., pp. 239-240.

classified as a "reform".<sup>16</sup> But generally, New Jersey government was strengthened by the document. The New Jersey document comes closer to a "model" constitution than those written by the other four conventions studied. The limits of the document were set forth in the convention enabling act (and in a deal between Governor Driscoll and Frank Hague).<sup>17</sup> The convention was not charged with the responsibility of providing a fair-apportionment of legislative seats. Hence, one of the most controversial political problems in the State was avoided. The major accomplishments were significant, but they did not formulate any new political balance in the State.

#### G. CAMPAIGN AND ADOPTION

After the convention adjourned, the delegates worked hard for the ratification of their document.<sup>18</sup> Their work was rewarding, as the voters of New Jersey approved the new document with a majority of 670,000 votes. Only one small county turned in a majority against the document. Political "Boss" Frank Hague's Democratic Hudson County gave the document a plurality of over 136,000 votes.<sup>19</sup>

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<sup>16</sup>William F. O'Connor, "New Jersey 'Compromises,' Replaces Old Charter," Minneapolis Star, October 20, 1953, p. 21.

<sup>17</sup>See *infra*, p. 201.

<sup>18</sup>Bennett M. Rich, "Convention or Commission?" National Municipal Review, XXXVII (March, 1948), p. 138.

<sup>19</sup>Schlosser, op. cit., p. 235.

## V. TENNESSEE

The Tennessee limited constitutional convention of 1953 was called together by the Secretary of State on April 21, 1953. Sine Die adjournment was proclaimed thirty-two sessions later on July 16. The convention's three months were not times of partisan political struggles. The organization and the decisions of the convention did not produce a division line between the parties.

## A. SELECTION OF OFFICERS

On the opening day the president was elected. Tennessee like Missouri experienced an open battle on the convention floor for the awarding of this honor. Three delegates, all attorneys, all Democrats, vied for the position. Raymond Denney, head of the Nashville Bar Association, Cecil Sims, a former legislator, and ex-governor Prentice Cooper were the candidates. From the first ballot on, the real contest was between Sims and Cooper. Denney dropped out of the race after the third ballot, and Cooper was declared the winner following the fifth ballot. The following charts reveal the political nature of the voting. Sixty-seven Democrats, twenty-eight Republicans, and three independents participated in the voting.<sup>1</sup>

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<sup>1</sup>State of Tennessee, The Journal of the Constitutional Convention of the State of Tennessee, April 21, 1953, pp. 10-13. (Hereinafter referred to as Tennessee Journal).

BALLOT 1:	<u>SIMS</u>	<u>COOPER</u>	<u>DENNEY</u>	
D	23	32	12	67
R	9	12	7	28
I	$\frac{1}{33}$	$\frac{1}{45}$	$\frac{1}{20}$	$\frac{3}{98}$

## BALLOT 2:

D	24	32	11	67
R	12	11	5	28
I	$\frac{1}{37}$	$\frac{1}{44}$	$\frac{1}{17}$	$\frac{3}{98}$

## BALLOT 3:

D	24	33	10	67
R	13	11	4	28
I	$\frac{1}{38}$	$\frac{1}{45}$	$\frac{1}{15}$	$\frac{3}{98}$

BALLOT 4:	<u>SIMS</u>	<u>COOPER</u>		BALLOT 5:	<u>SIMS</u>	<u>COOPER</u>	
D	30	37	67	D	28	39	67
R	17	11	28	R	17	11	28
I	$\frac{2}{49}$	$\frac{1}{49}$	$\frac{3}{98}$	I	$\frac{2}{47}$	$\frac{1}{51}$	$\frac{3}{98}$

It is obvious that had the Democrats, with their sixty-seven votes, at any time made a choice for only one candidate, that man would have won. But also, it can be noticed that if the Republicans, holding only twenty-eight votes, had sided entirely with either Cooper or Sims, they could have made the choice on any ballot. Most of the Denney supporters went

to the Sims<sup>1</sup> camp (all of the Denney-Republicans did so) when Denney dropped out of the race. But no partisan implications can be inferred; Denney also supported Sims, and a follow-the-leader phenomena no doubt ensued. From the second ballot on, only eleven Republicans stuck with Cooper; while after Denney dropped out, seventeen Republicans stuck with Sims. Had the seventeen Sims Republicans convinced just one of the eleven Cooper Republicans to switch to Sims, Sims would have been the President. Instead, on the final ballot, two Democrats (Crossno, a Denney supporter, and Webb, a Sims supporter from the first ballot) switched votes from Sims to Cooper giving the ex-governor the victory. I believe that the balloting reveals that a bipartisan or a non-partisan motivation was present among the delegates in the selection of the President.<sup>2</sup>

Moreover, the same conclusion can be reached by looking at the selection of the vice president made on the second day of the convention. Former Governor Ben Hooper, a Republican, was given the post without opposition. A test of partisanship was then proposed by a Democratic delegate. The delegate moved that the convention rules be amended so that a second and third vice president would be chosen, one to be from West Tennessee, the other from Middle Tennessee (Hooper was from East Tennessee). East Tennessee is a Republican area whereas both Middle and West Tennessee are heavily Democratic. The two extra vice presidents had the rule change prevailed, would no

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<sup>2</sup>Idem.

doubt have been Democrats (only nine of the twenty-eight Convention Republicans were from outside of East Tennessee). A motion to table, hence kill, the rule changing motion prevailed by a 68-27 vote. Twenty-six Democrats and one independent teamed together in an effort to save the proposal. However, thirty-nine Democrats, twenty-seven Republicans, and two independents sided with one another in a strong bipartisan move, killing the measure.<sup>3</sup>

### B. COMMITTEES

The Tennessee convention rules provided for ten committees in addition to a rules committee. Six of the ten committees each dealt with the subject matter of one of six items the convention was limited to in the call of the convention. On the second day of the convention, President Cooper appointed seven Democrats and two Republicans to the rules committee.<sup>4</sup> Tennessee had nine congressional districts. The congressional district is an important political unit in the Volunteer State. Each of the nine districts was represented on the rules committee. The rules committee recommended and the convention approved rule thirty-nine regarding committee appointments:

"In appointing the membership of the... standing committees, the President shall appoint not less than one delegate from each Congressional District on each of the above-named Standing Constitutional Revision Committees. From the delegates so selected, the President shall appoint the chairman, provided,

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<sup>3</sup>Tennessee Journal, April 22, 1953, pp. 14-15.

<sup>4</sup>Ibid., April 22, 1953, p. 17.

however, each Congressional District shall be entitled to at least one chairmanship of a standing committee to be appointed from such Congressional District. No delegate shall have been appointed to more than one committee until after every delegate shall have been appointed to at least one Standing Constitutional Revision Committee. Before making appointments to Standing Constitutional Revision Committees, the President shall ascertain the desire of the delegates for committee appointments in the order of their preference, and it shall be the duty of the President to give consideration to such preferences in the selection of the membership of such Standing Constitutional Revision Committees."<sup>5</sup>

The six substantive committees were firmly in control of the Democrats. The size of these committees ran from nineteen to twenty-one delegates. Majorities were as small as 12-7 and as large as 15-3 (1 independent). Each delegate got at least one substantive assignment. Seven Democrats and seven Republicans each had two substantive appointments. Cecil Sims and Ben Hooper had three substantive appointments each. Congressional districts were honored: a delegate from each district was on each substantive and each procedural committee. Considering all ten committees, and the 155 assignments to them, we find that the individual Republican delegate was treated as well or slightly better than the Democratic delegate. Republican delegates averaged 1.64 assignments, whereas the Democratic delegates were given an average of 1.55 assignments. The bulk of the Republican delegates came from two congressional districts. The provisions of Rule 39 helped instead of hindered the Republicans. A committee chairman had to come from each congressional district. Therefore, although

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<sup>5</sup> See Rule 39, in ibid., April 23, 1953, p. 27.

the Republicans were in a 28-68 minority, they were given the chairmanships of two committees, one substantive and one procedural committee.<sup>6</sup>

### C. PATRONAGE

The Tennessee convention utilized the services of twenty-three employees. As was experienced in New Jersey, the staff was "borrowed" largely from state agencies. Only six of the twenty-three staff members were hired specifically to work for the convention.<sup>7</sup> Just how these six were hired, I have been unable to ascertain.

### D. FINAL VOTES

The convention took final recorded votes on eight amendments that were submitted to the voters. Each of the eight received overwhelming bipartisan approval. From five to thirty-three dissenting votes were recorded for each of the eight amendments. On no amendment did Republican delegates exclusively or primarily provide the negative votes. The partisan breakdown of the negative votes are given below in order to illustrate that the minority party was almost completely satisfied with the convention's work.

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<sup>6</sup>Ibid., April 28, 1953, pp. 30-34.

<sup>7</sup>Ibid., June 5, 1953, pp. 287-288.



VOTES ON AMENDMENTS PROPOSED BY THE CONVENTION  
RELATIVE TO:

- 1) Consolidating cities and towns, 65-15.  
Nay votes- 13 Democrat, 2 Republican.
- 2) Home Rule, 85-5.  
Nay votes- 5 Democrat.
- 3) Local legislation, 86-6.  
Nay votes- 2 Democrat, 4 Republican.
- 4) Amending the constitution, 73-22.  
Nay votes- 17 Democrat, 5 Republican.
- 5) Suffrage, . 67-21.  
Nay votes- 15 Democrat, 6 Republican.
- 6) Governor's term, 89-7.  
Nay votes- 5 Democrat, 2 Republican.
- 7) Governor's veto power, 65-33.  
Nay votes- 27 Democrat, 5 Republican, 1 independent.
- 8) Legislators' pay, 72-21.  
Nay votes- 17 Democrat, 4 Republican.<sup>8</sup>

E. METHOD OF SUBMISSION

The legislative provision enabling the creation of the convention restricted the manner in which the convention could submit its work for ratification. The convention had to submit each amendment it proposed for separate consideration.<sup>9</sup> Hence, eight different items appeared on the ballot. The convention did have a choice of when the public would

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<sup>8</sup>Ibid., May 12, 19, 20, 25, 27, June 4, July 15, 1953, pp. 115, 180-181, 193-194, 217, 237, 278, 306, 313.

<sup>9</sup>State of Tennessee, Public Acts 1951, Chapter 130, Section 8.

ratify or reject the work. The majority report of the elections committee proposed that the ratification vote be held on November 3, 1953. Four Democrats and three Republicans signed the report.<sup>10</sup>

Two Democrats on the committee submitted a minority report asking for an August, 1954, referendum.<sup>11</sup> Another Democratic member of the committee preferred the November, 1954, election for the time of the referendum.<sup>12</sup> The convention approved the majority report with a bipartisan 72-19 vote. The partisan breakdown of the vote was as follows:

	<u>YEA</u>	<u>NAY</u>	<u>I</u>
D	52 (79%)	14 (21%)	66
R	20 (83%)	4 (17%)	24
I	<u>72</u>	<u>19</u> (100%)	<u>1</u> 91

#### F. CAMPAIGNS

In the campaigns for the adoption of the eight amendments, almost all groups--civic, professional, and labor--worked for full ratification of the convention's work.<sup>13</sup> And, the work of the convention was accepted by the voters at the November elections. Only about one-sixth

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<sup>10</sup>Tennessee Journal, May 14, 1953, pp. 142-143.

<sup>11</sup>Ibid., May 14, 1953, pp. 144-145.

<sup>12</sup>Ibid., May 14, 1953, pp. 145-146.

<sup>13</sup>H. L. Trewhitt, "Tennessee Amends Her Constitution," State Government, XXVII (June, 1953), pp. 119-120.

of the eligible voters, 200,000, cast ballots. No other questions were to be decided at the election. All of the amendments were accepted by margins of more than two to one. All nine of the state's congressional districts turned in majorities for all eight amendments.<sup>14</sup>

### G. ACCOMPLISHMENTS

After a long struggle, Tennessee had finally amended her constitution. The amendments were not innovations, or even forward looking measures; but, they did show that the constitution could be amended and in a bipartisan manner. The scope of the work of the convention was limited. Likewise, the product of the work was limited. The amending clause was made only slightly more liberal. The legislature was no longer restricted to writing only one proposed amendment to the constitution each six years. The pay of legislators was boosted from four to ten dollars a day. The governor's term was lengthened, and the item veto was given to the chief executive. Suffrage requirements were moderately liberalized. An improved local government provision allowing expanded "home rule" was adopted.<sup>15</sup> Many problem-latent facets of state government were not dealt with. For the most part the convention was not the power to solve the problems. These problem areas included taxation, legislative apportionment,

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<sup>14</sup>The New York Times, November 8, 1953, p. 67.

<sup>15</sup>Trewhitt, op. cit., pp. 121-122.

and the legislative quorum requirement (which remained at two-thirds the elected membership--a requirement which had demonstrably slowed down the legislative process).<sup>16</sup> The significance of the Tennessee convention lies not in what it accomplished--it accomplished so little--but in that it was a new-found tool for amending what was considered to be the "unamendable" constitution.

## VI. CONCLUSIONS AND RECAPITULATION

A general overview of the various sections of this chapter leads to the following conclusions relating to my dependent variable--prominence of party values in constitutional conventions. Missouri demonstrated that a convention could establish a stable, continuing, spirit of bipartisanship in its deliberations. Such a spirit in the Missouri convention accompanied a diminutive prominence for party values. Also, party values did not enjoy a status of prominence in the New Jersey and Tennessee conventions. In the Michigan convention a reliance upon party values was obscured in the early phases of the convention. Neither party seemed willing to destroy an image of inter-party cooperation. However, the passing of time witnessed the growing prominence of party values, until these values came to dominate the convention's actions. In New York, no early convention action concealed the fact that the delegates were bestowing a high position of prominence upon political party values. Such reverence for the values continued

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<sup>16</sup>Ibid., pp. 122, 128.

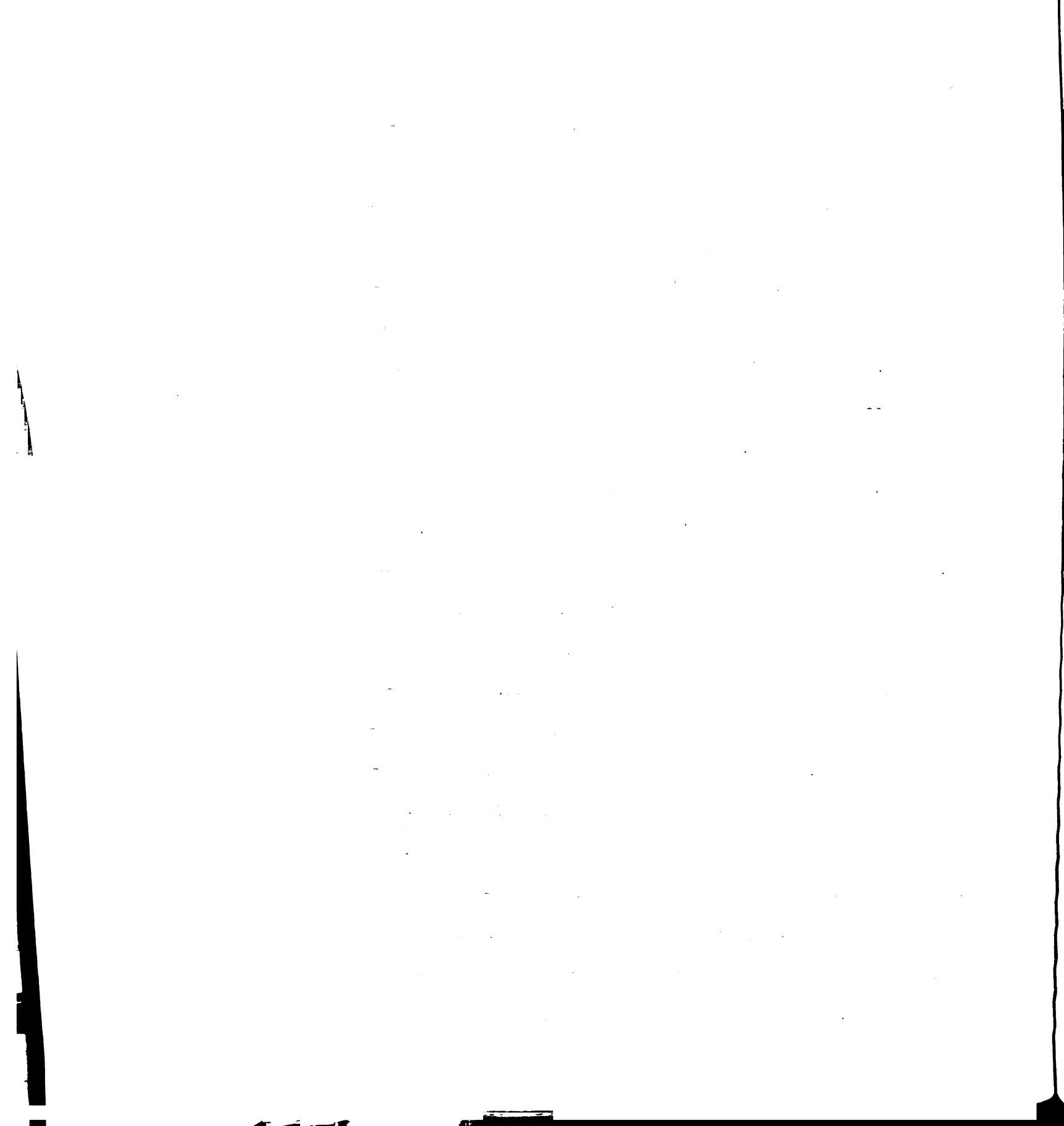
throughout the deliberations of the convention.

The second chapter offers an investigation into several factors that help explain why party values played different roles in the five conventions. Below is a recapitulation of the evidence which establishes the above mentioned conclusions.

1. The selection of a compromise president by the Michigan constitutional convention met with the approval of all convention factions. A spirit of bipartisanship prevailed over the selection of officials as the Democratic minority acquiesced in making the selections unanimous. For the New York conclave, officials were chosen by the political party organizations outside of the convention. Party strategy played a key role in the selections. The Democrats did not utilize a one-vote majority (the delegate creating a Democratic majority was actually chosen by both parties) in the choosing of Missouri's convention officials. Of three candidates--all Democrats--for the presidency, the one delegate most heavily supported by Republican delegates was elected. A Democratic split of votes allowed the Republicans to select the candidates most to their liking. The President of the New Jersey body was chosen "behind the scenes". The President, however, was a "non-political" type Republican--in fact he was President of the State University. The selection of a president for the Tennessee convention was, as the voting indicated, not a partisan matter. Also, the Democratic majority refused to adopt a rule which would have allowed the Democrats to control the selection of vice-presidents.

2. A bipartisan spirit generally prevailed over the process of formulating rules for the Michigan assemblage. The two party delegations did demonstrate a high degree of cohesion on rules pertaining to closed sessions, but the Democratic interests, in fact, were not impaired by the decisions reached. Rules adopted in New York favored the Republican majority. Missouri's rules of procedure and organization were by constitutional provision institutionalized on a level of bipartisanship. New Jersey's rules were adopted without opposition from any delegate--an indication that they were not designed to favor any particular convention group. The Tennessee rules did not recognize party groups, but instead the rules were designed to recognize the delegates as members of the state's nine congressional districts.

3. Democrats enjoyed committee memberships in excess of their proportional strength at the Michigan convention. The minority was also allowed to appoint members to committees, and they did so in a manner which maximized the strength of their numbers. The Republican leaders were not effective in satisfying their delegation with committee appointments. Appointments of members and chairmen of committees seem not to have been based upon any systematic criteria. Party service was not at all times the motivation for appointments. But, in New York, the Republicans used their committee-appointing powers to reward politically active Republican delegates. There is evidence that the state party organization participated in the making of the appointments. The Republicans were favored in the committee



assignments, the average number of appointments for a Republican delegate being 2.76, for a Democrat 2.04. In Missouri, the committee system was completely bipartisan, each party enjoyed equal strength on all committees. In New Jersey and Tennessee, members of the minority were, as individuals, treated favorably in the assignments. Members of the minority were also given chairmanships in each convention. As with the rules of organization generally, the Tennessee convention formally considered only the congressional district of the delegate in making appointments.

4. The Michigan convention dispensed almost all of its patronage--about seventy jobs--by non-partisan methods established by the state civil service board. However, at least one appointment to a higher staff position met with partisan opposition. The New York assemblage operated with a staff of 350. The positions were dispensed by the majority party within the convention, and by the party's state organization outside of the convention. Positions were given to individuals with good party service records. Patronage in the Missouri convention was evenly divided between the two parties. Whereas, the New Jersey and Tennessee conclaves filled almost all of their staff positions with individuals already employed by the state. These individuals, in effect, were merely temporarily transferred.

5. Activities during the later phases of the Michigan Convention provide evidence that party values did play a prominent role in that convention. Both the method of submitting the convention work to the



voters, and the time of such submission were issues in which the two parties stood firmly in opposition to one another. In New York, the matter of the time of submission was not a convention issue, but the method of submission was. The issue was one which generally divided delegates along party lines. However, the resolution of the issue was accomplished with a split in the Republican forces. In Missouri issues of the method of submission and the time of submission were no choice as to when the popular vote of ratification would take place. But they voted 75-0 to have their work ratified as a single document. In Tennessee, each amendment had to be voted on separately. The decision as to when the ratification vote would be taken was resolved in a bipartisan manner.

6. The Michigan convention came very close to have a purely party-line vote on the acceptance of the convention's work. Only 7 of 144 delegates deviated from their party's affirmed stand on ratification. Both parties were active in the ratification campaign. The Republicans called for the ratification of a "modern constitution", whereas, the Democrats campaigned against what they maintained was a "a net step backwards". There were no "central votes", so to speak, taken by the New York convention. Nine propositions were submitted to the voters. The Republican and Democratic party organizations were opposed to one another on two of the propositions. The Missouri convention accepted its own document with only four dissenting votes-- like everything else in the convention, the dissenting delegates were

evenly divided between the parties, two Democrats and two Republicans. Both parties supported popular ratification of the document. Only one delegate--a member of the majority--failed to vote in favor of the New Jersey document. Indications were that neither party opposed popular ratification of the document. The convention's votes on Tennessee's eight amendments demonstrated an overwhelming spirit of agreement among the ninety-nine delegates. On only four of the eight amendments were there as many as twenty opposition votes. And the opposition for the most part came from majority party delegates. Full ratification was urged by almost all factions in the state.

## CHAPTER FOUR

### CONVENTION ENVIRONMENTS

In this chapter, I am concerned with the environments of the five conventions. As in the third chapter, I separately view each convention. The events culminating the calling of the convention, and the process of recruiting the participants of the convention, as well as the participants themselves, provide the data relied upon to determine whether or not the hypothetical framework--set forth in chapter two--is valid. The data is organized somewhat differently for each convention. So that the theoretical implications of the data are not lost from view, I have, after discussing each pertinent factor, indicated in parentheses the number of the corollary corresponding to the factor. For further purposes of clarity, I recapitulate all the factors after discussing each convention. Following--in chapter five--the same data is re-assembled in validating the several corollaries.

#### I. MICHIGAN

The fifth constitutional convention of the State of Michigan was called to order by Secretary of State James M. Hare on October 3, 1961. The historic occasion marked the climax of a decade-long struggle led by many groups and individuals desiring constitutional

reform. The place of convening was the main exhibition hall of the Lansing Civic Center where many empty spectator seats reflected the popular disinterest. The convention was empowered to revise the entire state constitution. (T-1)

#### A. CONSTITUTIONAL REVISION METHODS

The 1908 Constitutional Convention, the preceding convention, had provided that the question of whether or not Michigan should hold a convention for the general revision of the constitution could be submitted to the voters in two ways. First of all, the 1908 constitution specified that the question must be put to the people at periodic intervals:

"At the general election to be held in the year nineteen hundred twenty-six, (and) in each sixteenth year thereafter and at such times as provided by law. The question of a general revision of the constitution shall be submitted to the electors qualified to vote for members of the legislature. In case a majority of such electors voting at such election shall decide in favor of a convention for such purposes... electors... shall elect... delegates." <sup>1</sup>

Also, a simple majority in both houses of the legislature could submit the question to the voters. The State Supreme Court in 1949 ruled that to call a convention under these provisions a majority of all voters voting in the election, not merely a majority voting on the question, must express a desire for the holding of a convention.

The 1908 constitution provided that amendments to the document could be proposed by a two-thirds majority of each house of legislature.<sup>2</sup>

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<sup>1</sup>State of Michigan, Constitution (1908), Article XVII, Section 4.

<sup>2</sup>Ibid., Article XVII, Section 1.

Also, a 1913 amendment allowed amendments to be proposed by the initiative process. An amendment ratified by the people in 1941 changed the details of the 1913 amendment so as to have amendments proposed by petitioners equalling ten per cent of the vote cast for all candidates for governor at the previous election. The 1941 provision required that petitions be filed four months before they were to be voted on at a general election. Amendments proposed by the legislature, by the initiative process or by a convention would be ratified by a majority of the voters voting on the amendments.<sup>3</sup>

#### B. EARLY ATTEMPTS AT ESTABLISHING A CONVENTION

In 1926, the question of holding a convention was automatically placed on the ballot. The voters clearly rejected the proposition by a vote of 119,491 in favor, to 285,282 against.

The question again appeared on the ballot of the general election of 1942. In anticipation of that ballot question, Democratic Governor Murray D. Van Wagoner in 1942 created by executive order the Michigan Constitutional Revision Study Commission. Thirty-two distinguished citizens carefully surveyed the Michigan Constitution. The commission voted to recommend that the Michigan voters call a convention.<sup>4</sup> But,

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<sup>3</sup>Ibid., Article XVII, Section 3.

<sup>4</sup>Arthur W. Bromage, "Michigan Con-Con Fails," National Civic Review, XLVIII (January, 1959), p. 14.

again the voters said "No" to constitutional revision, their vote being 468,406 against to 408,188 in favor of a convention.<sup>5</sup> Professor Arthur W. Bromage of the University of Michigan argued that the reason for the defeat was the fact that the country was at war and little attention was being given to state constitutional revision.<sup>6</sup>

The desire expressed by the Governor's commission in 1942 was revitalized in the late forties. The legislature proposed by a majority vote in each house that the question of holding a convention be submitted to the voters in the fall elections of 1948. The League of Women Voters campaigned actively for a positive answer to the ballot question. The voters answered positively, but the effect of their voice was negated by the Supreme Court.<sup>7</sup> The people voted 855,451 to 799,198 in favor of holding a convention. The vote was insufficient as the Supreme Court invoked the constitutional requirement that a majority voting in the election must be favorable to the proposal before it could be adopted.<sup>8</sup> Such a majority was not present. The question was not to appear on the ballot again until 1958. However, the active struggle to hold a convention began years sooner.

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<sup>5</sup>Michigan State Chamber of Commerce, "How Come Con-Con?" Michigan Challenge, I (September, 1961), p. 4.

<sup>6</sup>Bromage, op. cit., p. 14.

<sup>7</sup>Michigan State Chamber of Commerce, op. cit., p. 4.

<sup>8</sup>People v. Board of Canvassers, 323 Mich. 523 (1949).

## C. POLITICAL ATMOSPHERE

The struggle for a convention during the fifties was undertaken in an atmosphere of great political conflict. From the Civil War until 1932, Michigan had been a Republican one-party state.<sup>9</sup> The nationwide New Deal Democratic upsurge was felt in Michigan. During the thirties and early forties, three Democrats won the governorship, relying heavily on urban majorities. However, the Republicans remained as a majority in the Supreme Court and in the Legislature, except for one session. The three Democratic gubernatorial victories did not extend to the entire executive branch. But, when Democrat G. Mennen Williams won the governorship in 1948, the Michigan political environment became highly competitive. In election after election during the fifties Williams won the governorship. And with his victories came statewide victories for other Democratic candidates for administrative board posts, and for Supreme Court judgeships. In the middle of the fifties the Democrats had effective control of the entire executive and judicial branches. Aided by a legislative apportionment scheme which did not rely heavily upon population criteria, the Republicans maintained control of the legislature.

The political atmosphere in Michigan was one of great conflict, because the Republican Party became aligned in the Thirties and the

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<sup>9</sup>John P. White, "Michigan Political History and Demography," in Sybil Stokes and Lynn Eley (ed.), The 1959 Summer Institute in Practical Partisan Politics (Ann Arbor: Institute of Public Administration, University of Michigan, 1960), p. 37.

Forties with management leaders of the great automobile corporations, that have offices and plants in Michigan.<sup>10</sup> The reserve strength of the party rested with rural voters and rural county governments throughout the state. The party had a vested interest in the legislative structure favoring rural interests. The rise of the Democrats was accompanied by the rise of organized labor and minority groups in urban areas of the state, notably in Wayne County. Party battles are not just Democratic versus Republican battles but are Democratic-Urban-Labor versus Republican-Management-Rural battles. All statewide elections in the past decade have been fought on issues related to these lines of battle. Stieber reiterates my contention in her Focus on Con Con. She says:

"Added to the political tensions are the naturally disparate views of labor and management. This cleavage is also intensified because Michigan contains the headquarters of the automotive industry and the UAW (United Automobile Workers) one of the largest and most powerful unions in the United States. These giant adversaries are pitted against each other at the bargaining table and, indirectly, in the legislative halls as well.

"Similarly widespread throughout the country are the clashing views of rural and urban people, but again this problem is made more acute in a state where four of the state's eighty-three counties contain 53 per cent of the population, and where urban counties are growing while many rural counties become more sparsely populated."<sup>11</sup>

Arthur W. Bromage stated the issue succinctly. In 1958, he wrote that

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<sup>10</sup>Stephen B. and Vera H. Sarasohn, Political Party Patterns in Michigan (Detroit: Wayne University Press, 1957), pp. 33-34.

<sup>11</sup>Carolyn Stieber, Focus on Con Con (East Lansing: Bureau of Social and Political Research, Michigan State University, 1961), p. 4.



Michigan politics "have reached a stage of acrimony and intensity previously unknown in modern times."<sup>12</sup> A constitutional convention controlled by an "out" party, and both parties are "out" parties in at least part of the state government, must be viewed in light of the political activity surrounding it. (T-3)

#### D. THE STRUGGLE LEADING UP TO THE CONVENTION

The fact that the guidelines for apportioning legislative seats have included considerations other than population has caused great concern to the Democrats. Republic legislatures have been a thorn in the side of administration programs since 1948. In 1952, the Democrats' major source of electoral strength, organized labor, attempted to change the apportionment. By the initiative process, two proposed amendments concerning apportionment were placed on the ballot. The labor proposal called for a strict population representation in both the state senate and the house. The second proposal was supported by the League of Women Voters, and several groups which identify with the Republican Party. The proposal called for a Senate whose district lines were to be frozen into the constitution and whose apportionment of seats favored the rural and outstate areas of the state. Under the second plan the House of Representatives was put on a formula which deviated somewhat from population lines. The labor proposal was

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<sup>12</sup>Bromage, op. cit., p. 13.

defeated. The second, so-called "balanced legislature" plan was ratified and became part of the state constitution.

With the defeat of the amendment which would have distributed seats on the basis of population only, Secretary of State James M. Hare became convinced that the only salvation for the state's problems would be to hold a constitutional convention. From 1952 until 1961 he favored the calling of a convention.<sup>13</sup>

The Constitution of 1908 provided that if there was to be a constitutional convention, the delegates would be selected from state senatorial districts. This provision would insure the election of a Republican convention. The Constitution also implied that members of the state legislature were ineligible for delegate seats.<sup>14</sup> However, the Constitution did not state whether the election of delegates would be on a partisan ballot. The Democrats wished to see some changes. Prior to the 1958 ballot question, members of the legislature attempted to initiate changes. Several Democrats introduced in the 1958 session House Joint Resolution E which would have had delegates represent House instead of Senate districts. House seats, especially since the one reapportionment amendment passed, were more nearly apportioned to population than Senate seats. This effort for a constitutional amendment fell far short of the two-thirds majority required in the House.

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<sup>13</sup>Interview with James M. Hare, April 30, 1962.

<sup>14</sup>State of Michigan, Constitution (1908), Article V, Section 7.

Republican Representative Theodore F. Hughes introduced to the 1957 session a House Concurrent Resolution which would have enabled legislators to become delegates. His efforts failed. During the 1958 session, efforts were made to specify the details of how delegates were to be selected. Senate Bill 1001 specified the partisan selection of delegates from senatorial districts. The Bill passed both houses of the legislature but was vetoed by Governor Williams. Williams favored the partisan selection but objected to the Bill's reiteration of the Constitution's delegate apportionment.<sup>15</sup> The November, 1958, balloting on the convention question therefore had to be made without the knowledge of how or when delegates would be selected.

The campaign for revision in 1958 was carried on by several organizations. Leading and most active among them was the League of Women Voters. The League's position favoring a convention was supported by the Michigan Junior Chamber of Commerce, the Michigan Education Association, the Parent-Teachers Association, the American Association of University Women, the Michigan Municipal League, and several other groups including the Michigan Republican Party.<sup>16</sup>

The Republicans endorsed the calling of a convention, emphasizing the antiquity of the 1908 document:

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<sup>15</sup>Bromage, op. cit., p. 14.

<sup>16</sup>Robert S. Ketchum, The 1958 Constitutional Revision Campaign in Michigan (Ann Arbor: Institute of Public Administration, University of Michigan, 1960), pp. 3-38.

"A constitutional convention should be held in Michigan in 1959 to revise our 50-year old Constitution with its 63 amendments. Michigan's Constitution should be compatible with the needs of modern society, and so framed that Michigan can recoup from its present entanglements to grow and prosper in the years ahead."<sup>17</sup>

However, a reason not to be lightly regarded was the fact that with the apportionment of convention seats, the Republicans had little to lose.

Robert S. Ketchum of the University of Michigan's Institute of Public Administration quoted a "Confidential Memo" for Republicans in regards to this point:

"The conservative elements of Michigan have the chance to write a constitution which will perpetuate sound thinking on public policy. A few years from now this may be more difficult to do. If we have a Constitutional Convention now, it will be more difficult for the radicals (the CIO and the Democrats) to get support for another one a few years from now.

"This is one of our best chances to be on the side of the good government groups, - particularly when any finished constitution can be voted down if objectionable.

"We are going to get constitutional revision someday. It is inevitable. Let's do it now while cooler heads prevail."<sup>18</sup>

Gubernatorial candidate Paul Bagwell was actively for a convention, and he made his positive stand a major issue in his campaign.<sup>19</sup> The Republican Party did not engage in an all-out campaign for constitutional revision as did the League of Women Voters because many individual

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<sup>17</sup>Republican State Convention, "State Convention Resolutions," adopted August 30, 1958, at Detroit, Michigan, p. 6.

<sup>18</sup>See Ketchum, op. cit., p. 25.

<sup>19</sup>Ibid., p. 26.

Republicans were opposed to the calling of a convention.

"In contrast to the convention delegates and county chairmen who favored a convention, most of the Republican candidates for the state legislature were opposed to revision.... This was particularly true in the rural districts, where the Michigan Farm Bureau waged a strong campaign against revision. For example, Senators Hutchinson and Morris continued to speak against a convention throughout the campaign."<sup>20</sup>

The Democratic Party opposed the calling of the convention, because the manner of selecting delegates would guarantee a Republican majority. The Democratic State Central Committee's "Resolution on Constitutional Convention" adopted in January, 1958, makes the position clear:

"The Democratic State Central Committee recognizes that the constitution of the State of Michigan, adopted in 1908 and since amended 63 times, is inadequate as a basic state document.

"We further recognize that various study groups through the years have shown the desirability of a more flexible constitution so that the changing needs of modern society may be met by statute instead of by the more cumbersome process of constitutional amendment. These studies have pointed to the need for a reorganization of executive functions and a fundamental revision of the State tax revenue structure.

"Balanced against the need for basis reform is the fact that the delegates to a constitutional convention would be chosen on the basis of the gerrymandered and hopelessly unrepresentative State Senatorial Districts.

"The Democratic State Central Committee seriously doubts that the delegates drawn from artificial districts designed to thwart the majority will of the people can be entrusted with the vitally important task of drafting a new State Constitution.

"With the greatest of reluctance we conclude that constitutional reform should not be attempted unless there is devised a more equitable method of choosing the delegates to such a convention."<sup>21</sup>

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<sup>20</sup>Idem., p. 26.

<sup>21</sup>See ibid., p. 50.

However, many Democrats did favor holding a convention. Secretary of State James M. Hare and Philip A. Hart, candidate for the U. S. Senate, were among the convention supporters. Because of intra-party differences neither party was in a position to take too strong a stand for or against a convention; and, neither party did take such a stand.

Groups opposing the convention included the Democratically oriented AFL-CIO, because of the basis of apportioning convention seats. The Republican-oriented Michigan Farm Bureau, Michigan State Grange, Michigan Township Association opposed the convention mainly because they were afraid of having vested constitutional interests changed.<sup>22</sup>

On November 4, 1958, the people voted: 821,282 expressed a preference for a convention; 608,365 voted against holding a convention. But, 912,182 others voted in the general election and failed to cast ballots on the convention question. Hence, although 57.4% of the voters voting on the question favored a convention, a majority voting in the election did not. In only one of Michigan's eighty-three counties did a majority of voters casting ballots in the election favor holding a convention. Support for the convention came mainly from urban and Democratic areas of the State. Most of the Republican counties of the state voted against holding a convention. Thus the not very strong stands taken by the two parties did not produce much effect.

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<sup>22</sup>Ibid., pp. 38-45.

In assessing the reasons for the 1958 defeat, Robert S. Ketchum maintains that a lack of popular interest killed the proposal. He claims that voter indifference was caused by the lack of strong campaigning by the political parties. The basis of apportioning seats produced the opposition of the majority party in the state, thus hurting the chances of a favorable return on the revision question.<sup>23</sup> Arthur W. Bromage saw two reasons for the defeat. One was that neither the legislature nor the governor provided for any preparatory work prior to the vote; secondly, the constitutional provision that a majority voting at the election must be in favor meant that a convention could almost never be called.<sup>24</sup> John P. White, University of Michigan Political Scientist, illustrated that voter apathy was greatest in the voting machine counties and precincts. These were in the more populous areas of the state, areas that otherwise favored a convention. He suggests that the question was placed in an obscure position on the machine ballot.<sup>25</sup> However, the 1958 defeat was not a thorough defeat. The League of Women Voters had carried out an extensive and effective educational campaign; and a solid majority of those voting on the question had favored calling a convention.

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<sup>23</sup>Ibid., p. 70.

<sup>24</sup>Bromage, op. cit., p. 14.

<sup>25</sup>John P. White, Voting Machines and the 1958 Defeat of Constitutional Revision in Michigan (Ann Arbor: Institute of Public Administration, University of Michigan, 1960), entire book.

Following the defeat a movement was started to convince a majority of the legislature to place the question of holding a convention on a 1959 ballot. The legislators did not act. When the idea seemed doomed, Michigan encountered a crisis that was to place constitutional revision again in the foreground of state politics. Challenge Magazine, the official organ of the Michigan Chamber of Commerce, relates the following:

"In 1959 the State ran into a financial debacle that won it unfavorable publicity throughout the nation. Many of its problems were blamed upon constitutional restrictions which earmarked certain funds and hamstrung to an extent both the legislative and executive branches of the government.

"The debacle brought the question of constitutional revision into closer focus. Michigan's 356 daily and weekly newspapers and 109 radio and TV stations got into the act in a big way. Not all favored revision but the majority--those in the larger metropolitan centers--did. The big problem was to overcome the apathy of a large segment of voters who on two occasions had smothered the proposition by a thunder of silence. Both in 1948 and again in 1958 revision had been approved by the majority voting on the issue but had failed to muster a majority of all voters."<sup>26</sup>

The possibilities of amending the constitution so as to enhance the likelihood of having a convention was studied by the Michigan League of Women Voters and the Junior Chamber of Commerce. The JCC's developed a proposed amendment and submitted it to the League of Women Voters in February, 1960. The League immediately endorsed the JCC amendment.<sup>27</sup> The amendment made several basic alterations

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<sup>26</sup>Michigan State Chamber of Commerce, op. cit., p. 5.

<sup>27</sup>Idem.



in the constitution. First it provided that the question of holding a convention would be submitted to the voters on April 3, 1961. Second, a majority of those voting on the question of holding a convention would be sufficient for the convention to become a reality. Third, the basis of the convention seat apportionment was changed. Each House district would elect as many delegates to the convention as it had representatives in the legislature, and each Senate district would elect one delegate to the convention. The amendment, then, provided for an election whereby the majority could realize their desires soon; and also, an apportionment basis more nearly reflecting population than the senatorial district basis. The third provision was no doubt aimed at winning support of the Democratic Party. (R-1, R-2)

Governor Williams, believing that initiative petitions for the "gateway amendment" would contain a sufficient number of signatures, moved to save the League and JCC's much effort. In February, 1960, three Democratic Senators introduced Senate Joint Resolution C, and twelve Democrats and one Republican introduced House Joint Resolution H. The two joint resolutions were identical. The Governor was the person who prepared the proposed amendment.<sup>28</sup> The amendment was very much like the "gateway amendment". House and Senate Districts were made the basis for delegate seats. A vote was to be taken in April on the convention question. And, a majority voting on the

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<sup>28</sup>Interview with Joseph A. Gillis, Member Michigan House of Representatives, April 5, 1962.

question would suffice for its adoption. The convention was to meet in the capitol city.

The Democratic amendment went further, however. It provided that the delegates were also to be elected at the April balloting. The convention would then begin in June. The date of submission of the work of the convention was clarified, to read: "At the first general election occurring at least 120 days after the final adjournment of the convention." The Governor's plan was to be implemented by having delegate primary elections in February. The fate of the joint resolutions was negative. In the House the vote was thirty-nine in favor, sixty-four against. A two-thirds majority was necessary. Fifty-two Republicans voted, thirty-nine voted "No". Fifty-two Democrats voted, twenty-six "No", and twenty-six "Yes". The Senate joint resolution was not reported out of committee. Hence, it was realized that the initiative process would have to be utilized if hope for a constitutional convention was to remain alive.

Also, during the 1960 session two House Bills, 222 and 419, pertaining to a convention were introduced by Republican Representatives Homer Arnett and Carroll Newton. The identical bills proposed that the legislature submit, as it had in 1948, the question of holding a convention to the voters in the general election of 1960. Neither of the Bills was reported out of committee.

The League and the JCC's therefore, solicited the adoption of the amendment by the process of the initiative. Needing signatures equal to

or more than 10% of the total vote cast for the office of governor in the 1958 Fall elections before July 8, 1960 in order to get the proposal on the November, 1960 ballot, three thousand members of the League, and six thousand JCC's began to circulate petitions for 231,000 signatures. On May 21, 1960, only 85,000 signatures had been collected. On this date the newly formed Citizens For Michigan, a self-proclaimed non-partisan organization led by Republican George Romney, endorsed the amendment. The citizens raised funds to pay for the printing of petitions, and they circulated them. This support seems to have been the needed "shot in the arm" for the movement. On July 8, over 322,000 signatures had been obtained.<sup>29</sup> The amendment, now called Proposal 3, appeared on the November ballot along with candidates for national, state, and local political offices. The campaign for the adoption of the amendment became a part of the more noticeable campaigns. Being a proposed amendment, Proposal 3 needed only a favorable majority voting on the proposal to become part of the state's basic document.

Good government groups and quasi-political groups campaigned actively for the adoption of Proposal 3. A number of these groups' leaders formed the Coordinating Committee for the Constitution Convention which remained active through the start of the convention. Some of the groups represented on the Coordinating Committee were:

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<sup>29</sup>Michigan State Chamber of Commerce, op. cit., pp. 5, 26.

The League of Women Voters, the JCC, Citizens for Michigan, American Association of University Women, Detroit Bar Association, Michigan Congress of Parents and Teachers, Michigan Educational Association, and the Michigan Municipal League.<sup>30</sup> (R-4)

As with the 1958 convention question there was no consensus within either party for supporting the amendment. The Republican candidate for governor again was Paul Bagwell. He actively supported the amendment. In August, the Party Convention adopted a resolution favoring a convention. However not all Republicans favored the resolution. Generally the same groups that opposed the convention in 1958 were also against the amendment--the Farm Bureau, The Grange, The Association of Supervisors, and the Townships Association.

The Democrats were divided on the issue. Secretary of State Hare, candidate for governor in the August Primary, actively supported the proposed amendment. His chief primary opponent, subsequently elected governor, was Lieutenant Governor John B. Swainson, who opposed the amendment. The State Party Convention meeting after the August Primary in Grand Rapids adopted a neutral stand on the proposal:

"The Democratic party reaffirms its belief in the need for constitutional reform and pledges a continuing effort to bring it about.

"While there is widespread agreement on the need for constitutional reform, honest differences of opinion exist as to the best method by which this desired goal can be achieved.

"There are those who sincerely believe constitutional reform can best be achieved through a constitutional convention,

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<sup>30</sup> Stieber, op. cit., p. 1.

while others believe with equal sincerity that needed reforms can best be achieved through selective revision....

"We urge that all citizens give most careful study to the alternative methods of reaching the common goal of constitutional reform and that they then make their individual decisions on the basis of a judicious evaluation of all available information."<sup>31</sup> (R-3)

On November 8, 1960, the voters ratified the proposed amendment by a vote of 1,312,215 to 959,527. John B. Swainson beat Paul Bagwell for the governorship in a race that drew over 3,200,000 votes. The amendment did not receive a majority of the votes cast on the election day, but that did not affect the outcome. Only twelve of eighty-three counties in the state favored the proposal. Eleven of the twelve were counties with urbanized areas. Only three had cast a majority of ballots for James M. Hare over John B. Swainson in the August Primary. Eight of the twelve did stand for Bagwell in November. However, the largest majority for the amendment came from heavily Democratic Wayne County. Of the seventy-one counties against the amendment, fifty-nine cast majorities for Paul Bagwell in November.<sup>32</sup>

George Van Peurse, Chairman of the Republican State Central Committee, mentioned that the outstate Republican areas were sold on the position that the "piecemeal" change approach was best for constitutional

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<sup>31</sup>Democratic State Convention, "Platform and Resolutions of the Democratic Party of Michigan," Adopted August 27, 1960, at Grand Rapids, Michigan, pp. 29-30.

<sup>32</sup>State of Michigan, Official Canvass of Votes (August 2, November 8, 1960 elections).

revision.<sup>33</sup> In any event, it appears again that party positions on this issue were not the dominant forces that help explain why the votes were cast.

The campaign was now continued in quest of a favorable April 3, 1961, vote. The question of holding a convention appeared on the ballot then as Proposal One. The election date was also the time of electing a state highway commissioner and a state school superintendant. The parties, therefore, were actively engaged in campaigns aimed at the April election. Swainson, now governor, was convinced that the people wanted a convention. He openly supported Proposal One. The Democratic State Convention meeting, February 3, 1961, pledged support for the proposal.<sup>34</sup> Paul Bagwell, supporter of the constitutional convention, was a defeated candidate. His main election support, and the support for the Republican Party, had come from areas of the state which were not favorable toward the November proposal. In the Republican Convention of February there was a change in position. The party did not support the calling of a convention, but rather, assumed that a convention would be called and proceeded from there. The Republican convention adopted a resolution saying,

"...Anticipating a favorable vote on the call for a constitutional convention April 3, we propose that delegates be nominated in special party primaries and elected at a special

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<sup>33</sup>Interview with George Van Peurse, June 19, 1962.

<sup>34</sup>Michigan Education Journal, XXXVIII (February 15, 1961), p. 1.

state election on a party ballot. . . . We believe in the basic soundness of our constitutional system and will defend it in a constitutional convention. " <sup>35</sup>

The extent of legislation pertaining to a convention and passed prior to April in 1961 was seen in a few bills setting up election machinery in case Proposal One passed. Proposal One did pass; 596,432 voters favored the calling of a convention whereas 573,012 did not. The vote for highway commissioner exceeded 1,200,000, so again a majority of the voters did not vote for a convention. The November amendment was truly a "gateway" amendment; without changing the majority requirement, a convention would not have been called. <sup>36</sup>

The April 3 vote made effective legislation which called for primaries to be held on July 25, and general elections to be held on September 12. The convention was scheduled to convene on October 3, 1961.

#### E. THE LEGISLATIVE ROLE IN PREPARING FOR THE CONVENTION

The need for preparatory research and arrangements was the first desire cited by those concerned with the success of a convention after April third. Governor John B. Swainson immediately urged the establishment of a convention preparatory commission. On April 4 he sent a message to the legislature in which his views on the matter were made known.

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<sup>35</sup>Republican State Convention, "Resolutions," Adopted February 4, 1961, at Detroit, Michigan.

<sup>36</sup>Michigan State Chamber of Commerce, op. cit., p. 26.

He said:

"The experience in other states which have held constitutional conventions indicates that the success of the convention approach depends on a planned program of preparation, education and action.

"Therefore, I am recommending to you the establishment of a Constitutional Convention Preparatory Commission. . . . I recommend this new commission consist of nine members, two appointed by and from each house of the Legislature in the usual manner of appointing standing committees, except that one appointee of each house shall be from each political party; and five citizen members appointed by the governor, one of whom shall be designated as chairman by the governor.

"The commission shall be given the power to undertake studies and prepare recommendations with respect to the technical and procedural aspects of the holding of a convention, including plans for housing and staff, and any other matters which the commission believes will assist delegates in organizing and carrying forward the business of the convention and producing a public understanding of its purposes.

". . . . I am also recommending that the statute creating the commission be given immediate effect and that an immediate appropriation of \$100,000 be made to enable the commission to employ a staff of professionally competent persons to assist it in carrying out its purposes. . . ."

"The machinery for the holding of a constitutional convention has been put in motion by the people. I am certain that the executive and legislative branches of state government working together will provide the leadership and action required for a conscientious and enlightened review of our constitution." <sup>38</sup>

The legislature, that is the majority in the legislature, was quite reluctant to provide any semblance of leadership. On April 6th Democratic Representatives Kowalski, Gillis, Bowman, and Edwards introduced Bill 681 which would have created a preparatory commission after Swainson's model and would also have provided \$100,000 for its work.

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<sup>38</sup>State of Michigan, Seventy-first Legislature, Journal of the Senate, Number 48, April 4, 1961, p. 433.



The Bill was referred to the Committee on Ways and Means where it died.

Russell Strange, a Republican legislator, stated in a private interview that the legislature did not want to set up a research commission for fear that its membership would be stacked by Governor Swainson. He also said that the legislature at this early time did not realize the research needs of the convention.<sup>39</sup>

On April 17, following Bill 681's defeat in committee, Representative Joseph A. Gillis of Detroit sent a letter to five private research organizations requesting that they aid the convention by providing a preparatory manual emphasizing convention procedure. Gillis wrote,

"It should be kept in mind that in preparing the manual a majority of delegates to Con-Con will not have held public office before, and probably not have an intimate knowledge of state government.

"Could you get together and come up with a manual? I am sure that if every elected delegate had such a manual in his hands immediately after their election, it would materially assist in organization and would shorten the convention."<sup>40</sup>

This appears to have been one of the earliest appeals for research aid from non-public organizations. The reluctance of the Legislature made more appeals necessary.

On April 19, George Romney, in a letter to legislative leaders, urged the lawmaking bodies to take positive action for preparatory

<sup>39</sup>Interview with Russell Strange, Member Michigan House of Representatives, April 10, 1962.

<sup>40</sup>Letter from Joseph A. Gillis to Citizens Research Council and four other groups, April 17, 1961.

research. The Chairman of the Coordinating Committee for Constitutional Convention criticized the House for its action in regards to a preparatory commission, saying, "We consider shortsighted the legislature's failure up to now to provide for needed preparatory effort and research to properly implement the expressed will of the citizens."<sup>41</sup> Romney pledged the support of his group for doing any necessary preparatory work.

House Concurrent Resolution 31 was introduced by Joseph Gillis on March 22. The resolution stated:

"Whereas, if the electors at the Spring election approve the calling of a convention...the delegates will meet in the city of Lansing on October 3, 1961, and in all probability will still be in session at the time the legislature is scheduled to convene; and, whereas, the presence of both the legislature and the Constitutional Convention, each with a membership of 144 persons and staff of employees will cause a serious overcrowding of public facilities in Lansing, and will disrupt the deliberations of both bodies, and, whereas, it is possible by an adjustment of the legislative schedule to avoid many of these problems; now therefore, be it resolved (that a committee be appointed to develop a schedule to minimize the problems mentioned)."

The resolution was referred to the Committee on Rules and Resolutions. It was reported out of committee on April 5, and was adopted by the House on April 6. The resolution then passed to the Senate where it was allowed to die in the Committee on Senate Business.

On April 28, Gillis introduced Resolution 79 to create a pre-convention planning committee to function in the interim between the

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<sup>41</sup>Letter from George Romney to Representative Joseph J. Kowalski, April 19, 1961.

1961 and 1962 Regular Sessions of the Legislature. This resolution was referred to the Committee on Rules and Resolutions where it died.

On May 2, Gillis along with Republican House leader Allison Green introduced House Concurrent Resolution 60 creating a special committee to study and make necessary recommendations to the constitutional convention. The House adopted the measure on May 5 and transmitted it to the Senate. This resolution, too, was referred to the Committee on Senate Business where it died. (S-2)

An appropriation will be introduced to provide \$3000 for the purchase of books for a convention library. Both House and Senate Appropriation committees rejected this measure.<sup>42</sup> However, the legislature was cognizant of the fact that conventions cost money. As an amendment to Bill 223 the House appropriated \$2,000,000 for the convention. The Senate concurred. Also, some cooperation toward the convention was witnessed on the last date of the 1961 legislative session. Republican Representatives Bursley, Strange, and Nakkula teamed up with Gillis and Bowman to introduce House Resolution 111. The resolution called for the creation of a committee to:

"1. Study and make such recommendations to the Constitutional Convention and the Legislature as are necessary... and

"2. Do all within the power of the Legislature to facilitate the operation of the Convention and to cooperate with any request of such Constitutional Convention...."

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<sup>42</sup>Interview with Joseph A. Gillis, April 5, 1962.

The resolution was adopted on May 12, the session's last day. The value of the committee, known as the "Bassett" committee, was minimal. It met only once prior to the convention and only twice during the convention, no action being taken by it at any time. Its membership included four Republicans and three Democrats. The conservative influence of Chairman Wilfred Bassett predominated.<sup>43</sup>

Also, on May 12, Joseph Gillis had House Resolution 110 introduced and adopted. The resolution was co-signed by fifteen Republicans and the Democratic Leader. The proposal allowed House employees to aid the convention during its organizational states. The clerk of the House, Norman Philleo, was interested in becoming the Secretary of the Convention. So also was Fred Chase, secretary of the State Senate. Resolution 110 seemed to give Philleo an advantage that Mr. Chase's senators felt he should not enjoy. Therefore they imitated the House action and went further. The Senate's resolution allowed their employees to work for the convention throughout the term of the convention, not only during the opening sessions. Whatever the motives behind the passage of the two resolutions were, they did help the convention considerably during its opening sessions. (S-2)

#### F. PREPARATIONS FOR THE CONVENTION

Having been denied the chance to see a statutory preparatory commission established, Governor Swainson on June 20, 1961, set up,

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<sup>43</sup>Idem.

without legislative authorization, a preparatory group. Swainson appointed eighteen members. Their chairman was Harold Stoddard, President of the Michigan National Bank, Lansing. Swainson had all major interests in the state represented on the commission. Presidents and past presidents of farm, education, labor, local government, and good government groups were appointed. Secretary of State James M. Hare was also a member of the commission. Democrat Swainson de-emphasized partisan motives in the appointments he made.

In a letter to Chairman Stoddard, Swainson stated that the functions of the commission were to:

"1) Develop for consideration by the convention delegates alternative suggestions for the physical facilities, staff rules of procedure, library resources and other 'housekeeping' matters,

"2) Prepare or have prepared studies and reports relating to the substantive issues which will be considered by the delegates in order that the delegates may have the best factual information available to them in reaching their decisions,

"3) Bring together in a meaningful and useable form all the information available on con-con matters, by whom-ever prepared, for presentation to the delegates upon election and prior to the actual convening of the convention, and

"4) Provide such consultant services to the delegates as they may request." <sup>44</sup>

Swainson also expressed the hope that funds would be made available so that the commission might carry on its functions. His hope was realized

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<sup>44</sup>Letter from Governor John Swainson to Howard J. Stoddard, Chairman of the Constitutional Convention Preparatory Commission, June 19, 1961.

as the Kellogg Foundation gave a grant of \$85,000 to the commission.<sup>45</sup> (S-1)

The committee delegated the task of making all of the physical arrangements to Secretary of State James M. Hare. Bernard Apol, Director of Elections in the Secretary of State's office, did much of the "arranging." The first decision that had to be made was where to hold the convention. The amendment adopted in November, 1960, provided that the convention had to convene in the capital city, meaning the city of Lansing. But the need to make a decision was not averted by the amendment. Attorney General Paul Adams, informally interpreted the amendment to mean that only the opening session of the convention had to meet in Lansing, that the convention could subsequently meet anywhere in the state.<sup>46</sup> A Lansing law firm, Marshall, O'Brien and Fischer, offered an opinion which disputed Adams' opinion. They claimed that the convention had to meet in Lansing for its duration.<sup>47</sup> Hare's action rendered the dispute moot.

Several places were mentioned for a convention site. Detroit Democrats and some Detroit Republicans wanted the convention in that city. The state fairgrounds were suggested. Other cities were suggested as

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<sup>45</sup> Michigan State Chamber of Commerce, "Constitutional Convention Physical Arrangements," Michigan Challenge, I (September, 1961), p. 12.

<sup>46</sup> Idem.

<sup>47</sup> Ibid., p. 13.

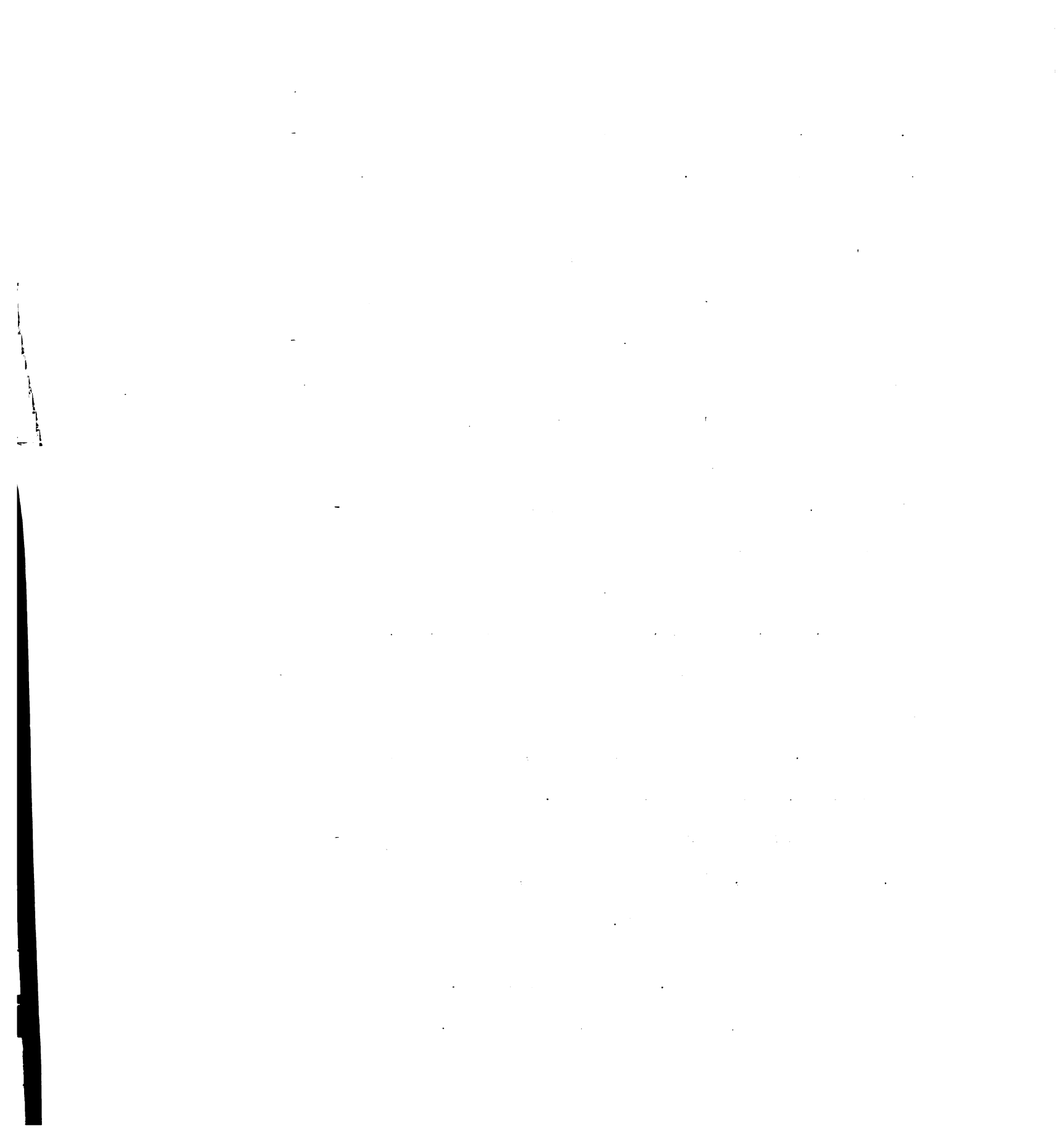
was Mackinac Island and an abandoned copper mine in the Upper Peninsula. However, only one community, Bay City, made an offer in writing. Hare selected Lansing. Several reasons led to the choice. Lansing was the center of Michigan government, it was centrally located for Michigan's major population distribution, and it offered the necessary facilities for a convention. When the Lansing area was chosen, the next problem became where in the area. The Capitol had to be ruled out because the Legislature would be meeting there from January, 1962, on. Michigan State University's campus was considered, but the choice was the Lansing Civic Center. The Civic Center Board had not requested the convention. But they were cooperative, for in order to accommodate the convention, they cancelled many reservations of Center facilities that had already been made. The Center was leased from September 15, 1961, to May 31, 1962, at a cost of \$110,000.<sup>48</sup>

It was realized that the convention would have to ratify this decision. But there was not too much worry that the convention would choose to meet elsewhere. Hare had constructed a \$26,000 voting machine in the Civic Center. This could not be moved. Other construction work on the interior of the Center negated the possibility of a move elsewhere. The delegates, with minor exceptions, felt that the facilities they enjoyed were entirely adequate.<sup>49</sup>

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<sup>48</sup>Interview with James M. Hare, April 30, 1962.

<sup>49</sup>Interview with J. Harold Stevens, May 25, 1962.





The Constitutional Convention Preparatory Commission handed the task of gathering resource material for the delegates to representatives of the three major state universities. Dr. William Combs of Michigan State University led the group. He was not aligned with either political party. Of the two others, one was Republican, one Democratic. They were Dr. Charles Joiner of the University of Michigan Law School and Dr. Alfred Kelly of Wayne State University. The bipartisan group conducted their work in a non-partisan manner.

They arranged to have a convention library of 2,000 volumes. Francis X. Scannell of the Michigan State Library was helpful in gathering the materials. Delegates were also given access to the 600,000 volume resources of the State libraries in Lansing.<sup>50</sup>

The three resource gatherers arranged with several scholars in the state to have studies made of several phases of the constitution. In the preface of each of the eighteen studies completed is found the following message:

"This pamphlet is one of a series that has been prepared under the direction of the Constitutional Convention Preparatory Commission for the Michigan Constitutional Convention which will convene at Lansing on October 3, 1961. The authors have been selected because of their ability to research with authority the problems involved and it is the hope of the Commission Staff that their treatment will prove to be of some value to the delegates in their consideration of this matter. The study does not represent the conclusion of the Commission nor necessarily that of its members.

"In directing the preparation of this study, the

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<sup>50</sup>James M. Hare, Press Release, September 28, 1961.

Commission Staff has been sharply aware of the sovereignty of the Convention itself and of the fact that all decisions of the Convention will be those of the delegates alone. "

Among the eighteen reports was A Prepared Manual of Organization and Procedure for A State Constitutional Convention by William J.

Pierce of the University of Michigan Law School. Pierce's study gave a rule by rule account of all convention procedure. Rules in other state constitutional conventions and in legislatures were described in relation to the specific rules he proposed for use in the Michigan Constitutional Convention.

On April 5, 1961, Governor Swainson appointed six Citizens' Advisory Committees. The membership of the committees included leading public officials, educators, and academicians throughout the state. The committees recommended changes in six areas of the State's basic law--legislative, executive, judicial, local government, taxation and finance, and education. The recommendations were published in six pamphlets ranging in length from nine to sixty-one pages. The pamphlets were distributed to the delegates by the Preparatory Commission.<sup>51</sup>

Several private organizations lent their efforts toward preparing for the convention. The Coordinating Committee for the Constitutional Convention drafted a proposed set of rules of procedure and organization for the convention. Most notable among the contributions of

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<sup>51</sup>Sturm, op. cit., pp. 31-32.

private public service organizations was a two-volume detailed analysis of the Michigan constitution. Each section of the 1908 document was compared to Michigan's 1835 and 1850 constitutions and also to the provisions of other states' constitutions. The Kellogg Foundation granted \$15,000 to the Citizens' Research Council for the compilation of these documents.<sup>52</sup>

Even though the Legislature balked at the thought of aiding the convention in the realm of preparatory research work, the Michigan Constitutional Convention had an excellent body of research to progress from when The Convention convened. The diversity of subject matter and the completeness of the preparatory research for the Michigan convention equal preparations for other conventions studied, and far surpass research for all conventions except New York's. Secretary of State James Hare viewed the research work arranged for by the Preparatory Commission in a favorable light when on the eve of the convening of the convention he said:

"Be getting underway ten weeks before the convening date of the Constitutional Convention, the Preparatory Committee may have saved the taxpayers of Michigan several hundred thousand dollars and has surely saved the 144 delegates many thousands of hours of time and research effort."<sup>53</sup>(S-3)

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<sup>52</sup>See forward to A Comparative Analysis of the Michigan Constitution (Detroit: Citizens Research Council, 1961).

<sup>53</sup>James M. Hare, Press Release, October 2, 1961.

## G. ELECTION PROCEDURES

The 1960 "Gateway" amendment answered several questions concerning the convention's participants and how they were to be selected. The amendment determined that 144 delegates would be selected, representing each senatorial and representative district in the State. (A-1) There were no at-large candidates. (A-2) It was also determined that the Governor should appoint delegates from the same district to the convention if a vacancy should occur. (A-4) Delegates were to be paid at least \$1000 for their services, and they were to be elected "not later than four months after the proposal (the voters' call of the convention) shall have been certified."<sup>54</sup>

By law the delegate's salary was set at \$1000 a month plus travel expenses. The total salary per delegate was not to exceed \$7500. (A-6) This salary raise became effective in 1958.<sup>55</sup> At that time the convention apportionment plan of three delegates per senatorial district was still in effect. This made it easier to gain Republican legislative support for the measure.<sup>56</sup>

The 1960 amendment did not specify when the elections for delegates would be held. The amendment did not mention a primary election or

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<sup>54</sup>State of Michigan, Constitution (1908), Article XVII, Section 4, as amended 1960.

<sup>55</sup>State of Michigan, Public Acts (1958), Number 204.

<sup>56</sup>Interview with Russell Strange, April 10, 1962.

whether the elections would be conducted on a partisan basis. In 1960, before the amendment was adopted, George Romney and representatives of the League of Women Voters met with an informal legislative committee consisting of Democrats and Republicans from both houses. These forces that were so effective in getting the proposed amendment on the ballot made a plea for non-partisan election of delegates. Mr. Romney believed that this would keep "politics" out of the convention. Not one member on the committee appeared to be influenced by Romney's stand.<sup>57</sup> Public Act 125 of 1960 provided for partisan elections. However, when the new amendment took effect and the voters called the convention, it was necessary that the election laws be rewritten to conform to the constitution. Public Act 8 of 1961, passed in April, reiterated the legislature's contention that the delegates should be elected on a partisan ballot. The primary election was set for July 25 and the general election for September 12, three weeks before the start of the convention. (A-3, A-7) The September date was more than five months after the April election. In order to meet the constitutional restriction of four months, the legislature provided that the certification of the April election would be made on May 16.<sup>58</sup>

One reason that the legislature chose the late July date for the primary in preference to an earlier date was that school officials did not

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<sup>57</sup>Idem.

<sup>58</sup>State of Michigan, Public Acts (1961), Number 8.

want the election to be held in June when many school elections were taking place. September 12 was chosen because this was the date of primary elections for city officials in Detroit.<sup>59</sup> Holding the election on that date saved the state over \$100,000. Act 8 provided that the major party candidates could be placed on the ballot only by filing petitions. The petitions had to be filed by June 6. No withdrawals could be made after June 9. Minor party nominees could be placed directly on the September ballot through caucus or convention action. The attorney general ruled that minority parties were entitled to a spot on the September ballot even though they may not have been able to collect enough votes in November 1960 to remain on the ballot at subsequent elections.<sup>60</sup> No person could secure a spot on the ballot by posting bond as they could for the legislature. This meant that each major party candidate had to have at least some support among the voters before his name could be placed on the ballot.

As mentioned above, a Republican legislator desired to have the constitution amended so as to allow legislators to become delegates.<sup>61</sup> His efforts were not successful. The Constitution, however, in 1957, the time of the proposed amendment, and in 1961, after it was otherwise amended, contained no expressed prohibition on having legislators

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<sup>59</sup>Interview with Joseph A. Gillis, April 5, 1962.

<sup>60</sup>State of Michigan, Attorney General's Opinion 3606, May 4, 1961.

<sup>61</sup>Supra, p. 122.

or any other group of officials sit in the convention. But other sections of the basic document implied incompatibility of offices. Representative Ben E. Lohman requested Attorney General Paul Adams to make a ruling on the eligibility of office holding candidates. On May 3, 1961, the Attorney General's office issued Opinion No. 3605, which stated:

"Members of the legislature are ineligible as delegates to constitutional convention during the term for which elected. Circuit judges are ineligible for the term for which elected and one year thereafter. The sheriff is ineligible unless he resigns his office. No other officers are ineligible."

Actually then, congressman, and United States Senators, and executive officers, could have been eligible if any of them had chosen to seek a convention seat. One congressman, Louis Rabeut, sought to become a delegate, and was defeated in the September elections. The delegates had to be residents of the district they represented and also registered voters in the district. (A-5)

#### H. THE ELECTIONS

There was a large field of candidates in the primary. In a letter to Secretary of State James M. Hare, sent June 22, 1961, Attorney General Paul Adams indicated that primaries would be necessary if the number of party candidates was either more or less than the number they were allowed to nominate. In only five of 144 districts were primaries not necessary. In another district, no Democratic candidate appeared on the ballot, and a nominee had to be selected by write-in-votes. In the 138 remaining districts there were candidates on both

sides of the ballot and a contest on at least one side of the ballot. There were contests on both sides of the ballot in ninety-seven districts. In all, 1208 major party candidates sought election to the 144 positions. Of this number, 652 were Democrats and 556 were Republicans. (B-1) This was by far the largest field of candidates for seats to the conventions.

Neither parties' state central committee gave any endorsements to primary candidates. In some areas endorsements were given by the local party. The Wayne County Democratic Party, and the Wayne County AFL-CIO also gave endorsements. Generally these endorsements were tantamount to primary victories. The Civic Searchlight, the organ of a metropolitan Detroit "good government" group gave a "preferred" rating to candidates it endorsed, and a "qualified" rating to some others. This group's endorsements were given to candidates of both parties, and in all instances the endorsements appeared to be an advantage to the candidates. (B-2)

On July 25, the headline of the Lansing State Journal read "Con-Con Vote Light." Not until the next day when the returns were in did the full meaning of the headline become known. Only fifteen per cent of the state's four million eligible voters cast primary ballots. Although the turnouts were light, the chairmen of both the Democratic and the Republican State Central committees indicated to me that their parties were very well satisfied with the primary results.<sup>62</sup> (B-3)

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<sup>62</sup>Interviews with Joe Collins, May 24, 1962, and George Van Peurseem, June 19, 1962.



The Summer campaign began to take shape almost immediately. Governor Swainson issued a statement saying he would support Democratic candidates in the September election. He mentioned that Democratic candidates would be expected to adhere to the philosophy of the Democratic Party. "They sought the election as Democrats," he said, "and they should follow these principles." He also said that all Democratic candidates would receive his support "unless there is a very good reason not to do so."<sup>63</sup> Swainson fulfilled his pledge as he campaigned throughout the entire state for Democratic tickets.<sup>64</sup> Democratic legislators were active in the campaigns also. They were active without having to fear that they were grooming their future primary rivals. This was especially true in Wayne County where the local party leaders assured the legislators that as long as they had a favorable voting record, they would be endorsed over any convention delegates in subsequent primaries.<sup>65</sup>

The Democratic Party took three stands on constitutional issues. First, they demanded equal representation in the legislature based on population. Second, they took the stand that judges should continue to be elected. Third, they advocated liberalizing the initiative and referendum provisions of the constitution. On all other issues a Democratic

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<sup>63</sup>The State Journal (Lansing), July 25, 1961, p. 2.

<sup>64</sup>Ibid., September 9, 1961, p. 3.

<sup>65</sup>Interview with Joseph A. Gillis, April 5, 1962.

candidate was free to stand as he pleased and retain party support.<sup>66</sup>

William Marshall and Thomas Downs, Democratic candidates who were elected to the convention, in a July 28 press release set forth their stands on several issues. They called for all candidates to campaign on issues, saying, "the voter has the right to know HOW candidates stand on key issues--and the candidates have the obligation to state their positions so the voter knows what he is voting for. Deceptive packaging has no place in a political campaign." The Democrats campaigned hard. However, they were greatly handicapped by the lack of a statewide organization. There were no statewide candidates to lead the tickets.<sup>67</sup> (B-2)

On the other hand, the Republicans built an organization just for the election. Eighteen Republicans coordinated the campaigning of the candidates. George Van Peursesem mentioned that the party was "as active as it could possibly be" in the campaigns. Financial help was offered to the candidates with top priority going to those in marginal districts. Second, priority was given to "top-name" candidates; lastly came candidates in districts where the primaries generally settled matters. The Republicans had no overall party issues that they were taking to the voters.<sup>68</sup> Several Republican candidates were paraded

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<sup>66</sup>Idem.

<sup>67</sup>Idem.

<sup>68</sup>Interview with George Van Peursesem, June 19, 1962.

around as "non-partisans." Joe Collins, State Democratic Chairman, contended that "many of the candidates running under the Republican banner constantly disavowed their 'label'."<sup>69</sup> J. H. Creighton, a lobbyist for the Michigan Manufacturing Association, commented that the "non-partisan" approach to the election by candidates nominated by the Republican Party "is something new in Michigan."<sup>70</sup> (B-2)

However hard fought the campaigns were, their effects were probably minimal. Gene Schroeder of the Associated Press, writing in the Lansing State Journal said:

"The campaign to elect delegates to Michigan's constitutional convention has brought virtually all parties concerned into agreement on one point--the voters are apathetic about the whole thing. Predictions of a light turnout have come from both sides of the political fence. And Robert Montgomery, state elections director, agrees that probably only 25% of those eligible will vote Tuesday (September 12)."<sup>71</sup>

Joe Collins predicted a close election with the possibility that absentee ballots would decide the results. (Many absentee ballots were expected because the election date fell during the Jewish holidays.)<sup>72</sup>

William Baird of the Lansing State Journal conveyed a more realistic prediction for the election; he said:

<sup>69</sup>The State Journal (Lansing), September 9, 1961, p. 3.

<sup>70</sup>Idem.

<sup>71</sup>Idem.

<sup>72</sup>Idem.

"Since the apportionment of convention delegates reflects legislative districting, most observers expect Tuesday's elections will produce a Republican majority."<sup>73</sup>

The Republicans had an edge of seventy-eight to sixty-six in the legislature.

## I. ELECTION RESULTS

On September 12, about 710,000 persons cast ballots. These voters represented less than twenty per cent of the State's eligible voters.<sup>74</sup> It was one of the lightest turnouts of voters for a state election in many years. The results of the election showed the Republicans gaining their greatest victory in Michigan since 1946. Ninety-nine Republicans were elected; forty-five Democrats were elected. The Republicans had picked up twenty-one seats that were held by Democrats in the legislature without losing any.<sup>75</sup> (B-3, B-4)

To political observers, the immediate cause for the result seemed to be the low turnout. Swainson indicated that as the major reason for the defeat of the Democrats. George Van Peursesem also was cognizant of the fact that very few voters cast ballots. But he remarked that "Those who did go to the polls represent that segment of the population which takes its obligation and responsibility of citizenship seriously."<sup>76</sup>

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<sup>73</sup>Ibid., September 10, 1961, p. 2.

<sup>74</sup>Ibid., September 13, 1961, pp. 1-2.

<sup>75</sup>Ibid., September 13, 1961, p. 1.

<sup>76</sup>Ibid., September 13, 1961, p. 2.

This was reiterated by one Republican delegate who said that this was a "well-informed turnout."<sup>77</sup>

Other reasons for the Democratic defeat were mentioned. There is probably some degree of validity in each. Secretary of State James M. Hare and Chairman Collins both indicated that the Democrats were hurt in that they had aired opposition to the idea of having a convention.<sup>78</sup> Though there is probably truth to this claim, especially in the Detroit area, it is interesting to note that approximately forty-two per cent of the Republican delegates were on record against holding a convention whereas only thirteen per cent of the Democratic delegates were.<sup>79</sup> Collins also contended that the constitutional convention issues were difficult ones; the Democrats did not have a clear-cut story to sell to the voters. Republican legislator Russell Strange of Clare said that the Democratic Party is used to using "Bread and Butter" issues in their campaigns. He contended that there were no such issues dealing with the constitutional convention.<sup>80</sup> Republican convention delegate J. Harold Stevens who represented a normally Democratic Detroit district observed that the Democratic Party didn't work for the election.

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<sup>77</sup>Interview with J. Harold Stevens, May 25, 1962.

<sup>78</sup>Interviews with John Joe Collins, May 24, 1962 and James M. Hare, April 30, 1962.

<sup>79</sup>See Sturm, op. cit., p. 153.

<sup>80</sup>Interview with Russell Strange, April 10, 1962.

He mentioned that the usual AFL pressure for the vote wasn't apparent, that the factory worker just wasn't interested.<sup>81</sup> George Van Peurseem felt that by taking a rigid stand for an equal population apportionment for legislative seats, a stand that could not be favored all across the state, the Democratic Party did themselves much harm.<sup>82</sup> It should be noted that only four of the forty-five Democrats came from outside of the Detroit Metropolitan area.

#### J. THE DELEGATES

What kind of people were the ninety-nine Republicans and the forty-five Democrats elected to the convention? Occupationally speaking, the delegates were legally-minded; that is, fifty-six were lawyers. (C-4) Businessmen (27) and farmers (14 full-time) were the next leading occupations. Educators, public officials and employees, and housewives, and union officials, followed in order in numbers. Eleven women (or eight per cent of the delegation) sat in the convention. (C-5) Likewise did thirteen Negroes. Percentage-wise and numerically this is the largest delegation of Negroes in any of the five conventions.

The Institute of Public Administration at the University of Michigan conducted a survey of the delegates to the convention in an attempt to draw a "profile" of the delegates. They found that the Republican

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<sup>81</sup>Interview with J. Harold Stevens, May 25, 1962.

<sup>82</sup>Interview with George Van Peurseem, June 19, 1962.

delegates were older than the Democratic delegates.<sup>83</sup> (Of the 100 delegates who submitted biographical information to the Preparatory Commission prior to the convention, the average Republican was fifty-two years old, the average Democrat was forty-one.)<sup>84</sup> The average age for the group was forty-eight years. (C-3) Although mention was given to the notion that some delegates were "non-partisan" the Institute found that the delegates for the most part were party oriented. Only four of the Democrats (thirty-nine responded to the survey) and sixteen of the Republicans (ninety-five responded) claimed that they were not active in their party's affairs. Sixty per cent of the Republicans and sixty-two per cent of the Democrats had held party offices. A former Republican State Chairman and a former Democratic vice chairman in addition to two Republican National Committee members were among the delegates.<sup>85</sup>

Seventy-four per cent of the Republicans and sixty-one per cent of the Democrats had held public office. Six Republicans had won statewide elections. Another six had served the people as circuit judges. Eight delegates, seven of them Republicans, had served in the state legislature. Another had been a United States congressman.<sup>86</sup> A group

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<sup>83</sup>See Sturm, op. cit., p. 48.

<sup>84</sup>Constitutional Convention Preparatory Commission, An Advance Directory of Delegates for the Michigan Constitutional Convention Convened October 3, 1961. (Lansing: Michigan Constitutional Convention Series, September, 1961), Number 19.

<sup>85</sup>Ibid.

<sup>86</sup>Ibid.

of delegates came to the convention after losing 1960 elections that would have, if they had won them, disqualified them from being at the convention. Eight lost primary battles for legislative seats. Another five lost legislative elections in November. One Republican lost a primary bid for the Lieutenant Governorship; and, another lost in an effort to become a United States Senator at the general election.<sup>87</sup> (C-1)

The largest share of the convention's deliberation, was during 1962, an election year. (T-2) Following the adjournment of the convention, thirty-two delegates were candidates in the August primary elections. One, Vice President George Romney, sought the gubernatorial nomination, another sought the lieutenant governor's chair. Three were candidates for congressional nominations, fourteen for the state senate, and thirteen for nomination to the state house of representatives. Two delegates nominated for executive office by the state parties' convention joined sixteen delegates who were successful in the primaries in seeking office in the November general election. (C-2)

#### K. PERSONAL ORIENTATION OF THE DELEGATES

Both the Democrats and the Republicans had held meetings before the convention started. Democratic candidates in Wayne County had met previous to the September elections. After the election, the Democrats held a meeting in Ann Arbor. The Republicans met in St. Joseph. I submitted a questionnaire to the delegates in an attempt

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<sup>87</sup>State of Michigan, Official Canvass of Voters, (August 7, November 6, 1962 elections).



to find out how well oriented the delegates were towards one another at the beginning of the convention. A copy of the questionnaire appears in the Appendix. Seventy-seven delegates (fifty-three per cent) responded. Fifty-seven were Republicans and twenty were Democrats. I asked if the delegates had attended any meetings of delegates before all the delegates came to Lansing. Ninety per cent of the Democrats and eighty-two per cent of the Republicans had. When I asked if any had attended an "organized caucus," I found eighty-five per cent of the Democrats saying "yes" and only forty-nine per cent of the Republicans answering in the affirmative. I surmise that the word "caucus" carried an evil connotation to a group of Republicans. They, perhaps, perceived their pre-convention meetings as non-political.

The seventy-seven delegates knew, on the average, twenty other delegates before they campaigned for the convention position. One delegate said he knew no other delegates; another claimed to have known seventy of the other delegates. My survey showed that the Republicans were better acquainted with one another than were the Democrats. The average responding Republican knew twenty-two other delegates previous to the campaigns; the average responding Democrat knew only thirteen others. Geographical closeness, and party and business acquaintances were the leading factors in the delegate's knowledge of one another. (See Appendix).

The personal orientations of the Michigan delegates at the start of the convention offer evidence explaining why party values became so

prominent as the convention progressed in time. The individual Democrat knew fewer of his fellow delegates than did the average Republican at the start of the convention. In seeking out acquaintances, and the Democrat evidently had more reason to seek out acquaintances than did the Republican, the Democratic delegate probably relied upon the same criteria on which they based their earlier acquaintances--geographical closeness, party and business affairs. Geography tended (if it was a force at all) to drive the Democrats together. Only four of forty-five Democrats came from outside of the Detroit Metropolitan area. Though the average Democrat knew only thirteen other delegates at the start of the convention, the delegate proposals indicate that he soon made acquaintances, and these acquaintances were fellow Democrats. On the fifth session day of the convention, the first of 830 proposals was introduced. One delegate wrote the proposal. On the seventh day, the first proposal was offered with more than one delegate as sponsor. I felt that I could get a feeling of the amount of party orientation among active convention delegates by looking at the way the delegates lined up to sign proposals. Arbitrarily I looked at all proposals submitted in the first month of the convention, October. During these first sixteen sessions of the convention, 133 proposals were submitted. Thirty-one of them had more than one sponsor. I was concerned with these. Forty-two of the delegates signed at least one of these proposals. I paired each delegate with each of his or her co-sponsor for each of the proposals. I found that eighty pairs of

delegates could be found among the forty-two delegates. Counting each pair once for each proposal it contributed in sponsoring, I found 180 pairings. Sixty-four of the eighty pairs, and 162 of the 180 pairings involved twenty-six Democrats only. Ten pairs producing twelve pairings involved fifteen Republicans only. Only six of eighty pairs equalling only six of 180 pairings were bipartisan. I believe that this small bit of evidence gives an indication that the delegates, at the start of the convention, were to a definite extent party oriented.

#### L. RECAPITULATION

Michigan conducted the major portion of its constitutional convention during an election year in an atmosphere of intense party competition. The convention was empowered to rewrite the entire constitution of 1908. Although the 1908 constitution had provided for a periodic submission to the voters of the question of calling a convention, the successful fight for a convention was an uphill struggle beset with many failures. Success was finally realized through amending the state constitution to provide for a vote on the question of calling a convention at an election which focused attention on the convention issue. The amendment also eliminated the necessity of securing an extraordinary majority as previously required. Had the provision not been changed, the convention would not have been called. The success was the result of vigorous campaigning on the part of several interest groups, mainly of the "good government" type. The Michigan political parties were not

active forces in the calling of the convention, although several political leaders were active. The state legislature was not at all congenial towards the idea of helping the convention. Measures designed to make the work of the convention less tedious were repeatedly defeated. The legislature did however, appropriate operational funds for the convention. The Governor had to turn to private groups in order to provide the convention with preparatory research works and to arrange for physical facilities for the convention. The preparatory research was extensive in scope and non-partisan in nature.

One hundred and forty-four delegates were elected from the state's 144 legislative (Senate and House) districts. The delegate-candidates were selected in party primaries. The general election occurred just three weeks prior to the beginning of the convention. The Governor was empowered to fill delegate vacancies. Legislators and circuit court judges were ineligible to become delegates, but most other public officials were eligible. However, there were few (15%) current or former state or national officials among the 144. The delegate elections were characterized by low voter turnouts. There was a considerable amount of activity by the state party organizations during the general elections but not during the primaries. An extremely large field of candidates sought primary nomination. One incentive for their candidacies was the "high" delegate salary of \$1000 per month.

The 144 delegates averaged forty-eight years in age. Thirty-nine per cent were lawyers; 8% were women and twenty-two per cent, a

significantly large portion, sought partisan public office on a state or national level during the 1962 elections. The Republicans secured a solid two-to-one majority in the convention.

## II. NEW YORK

### A. REVISION OF THE STATE CONSTITUTION

The voters of the Nation went to the polls on November 2, 1936, to re-elect President Franklin D. Roosevelt. Many governors and United States Senators were also elected on that date. The voters of New York State were given another choice, a choice few cared enough to make. On that day the ballot in New York contained the question of whether to call the eighth convention for a general revision of the state constitution. No "good government" group had to campaign throughout the Empire State, circulating petitions or lobbying for legislative votes, in order to get the question on the ballot. The 1895 constitution, fourth in the state's history and in effect at the time, provided that each twenty years the question of holding a constitutional convention would appear on the ballot.<sup>1</sup> This provision first appeared in the 1846 Constitution, and it has been retained in each constitution since then.<sup>2</sup> (R-1, R-2, R-4)

To effectuate the call of a convention a majority voting on the revision

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<sup>1</sup>State of New York, Constitution (1895), Article XIV, Section 2.

<sup>2</sup>O'Rourke, op. cit., p. 62.

question would have to express a desire to hold a convention. In 1915, New York had its seventh constitutional convention. But, because its proposed document contained several controversial provisions, and the convention submitted its work as a single package, the total work of that convention was defeated at the polls.<sup>3</sup> The question of calling the 1915 convention did not appear on the ballot automatically. It would have so appeared in 1916.<sup>4</sup> Prior to the convention the legislature exercised its prerogative of placing the question on the ballot at any time. A majority vote in both houses was necessary to do this.<sup>5</sup>

Prior to 1938 the amendments to the constitution of 1895 had been proposed by legislative action only. A majority of each house in two consecutive legislatures (an election of senators must take place between the two sessions) would submit the amendments to the public for ratification. A majority voting favorably on the amendment would suffice for its adoption.<sup>6</sup>

Although the legislature was generally "cool" toward revision of the constitution,<sup>7</sup> they did, in 1936, indicate at least a passing interest in

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<sup>3</sup>Grad, op. cit., p. 11.

<sup>4</sup>O'Rourke, op. cit., pp. 66-67.

<sup>5</sup>State of New York, Constitution (1895) Article XIV, Section 2.

<sup>6</sup>Ibid., Article XIV, Section 1.

<sup>7</sup>State of New York, Opinions of the Attorney General (1936), Numbers 333, 334 as quoted in Franklin Feldman, "A Constitutional Convention in New York: Fundamental Law and Basic Politics," Cornell Law Review, XLII (Spring, 1957), p. 334.

the idea of holding a convention. Although the state attorney general indicated that the question of holding a convention would appear on the November ballot without the legislature having to put it there, the legislature felt that it had to submit the questions to the public.<sup>8</sup> The legislature reiterated the fact that the question would be on the ballot, and they prescribed the election procedures for the vote. The procedures for the election of the delegates were also dealt with. The public, therefore, did know how and when the delegates would be selected if a favorable vote was delivered in November.<sup>9</sup>

#### B. POLITICAL ATMOSPHERE

In many ways the political scene in New York in the middle thirties was like that of Michigan in the early sixties. As of 1938, the Democrats had control of the governorship for sixteen years. In 1938, all major executive branch offices belonged to Democrats.<sup>10</sup> The legislature, on the other hand, tended to be Republican. The 1894 constitutional convention, controlled by Republicans, fixed into the Constitution a legislative apportionment scheme which definitely favored the Republicans, in that it favored upstate New York over New York City. For several years the Republicans controlled both houses of the legislature;

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<sup>8</sup>Idem.

<sup>9</sup>Feldman, op. cit., pp. 334-335.

<sup>10</sup>State of New York, Legislative Manual (1938), p. 349.

however, the Democrats were able to seize control of one house, the state senate, in the 1936 elections.<sup>11</sup>

In New York politics there is expressed by upstaters a fear of New York City, much like outstate Michiganans express a fear of Detroit. The fact that New York City tends to be Democratic on election day, drives many upstaters into the ranks of the Republicans. However, there are several Democratic pockets in upstate districts, and Republicans can get elected in New York City. The cosmopolitan nature of the state lessens the impact of the city-state split. Parties must appeal to a wide variety of voters in order to be effective on election day.<sup>12</sup> Party lines are not as well defined in New York as they are in Michigan. Two minor parties affected the pattern of politics in New York in the thirties. The Liberal and the American Labor Parties were to the political "left" of the Democrats. The Democrats had to make concessions to these groups in order to win their support, which could be crucial in a close election. These "splinter" parties were not above turning to the Republicans if the Democrats would not recognize their positions.<sup>13</sup> Generally then, New York's was a divided government in 1938. Partisanship existed, campaigns were competitive, though the lines of battle were not clear-cut. (T-3)

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<sup>11</sup>O'Rourke, op. cit., p. 66.

<sup>12</sup>Lynton Caldwell, The Government and Administration of New York (New York: Thomas Y. Crowell Co., 1954), "Political Parties," pp. 34-51.

<sup>13</sup>Ibid., p. 41.



## C. SUPPORT FOR THE CONVENTION

There was no campaign for a convention. The people of New York were more concerned with electing a full slate of state and national officials. Neither major political party took a strong stand on the question of calling a convention.<sup>14</sup> There was some opposition to holding a convention. Tammany Hall announced its opposition.<sup>15</sup> The New York Times, a week before the election, urged the voters to act negatively on the question. The Times argued that the fact that the parties were not taking stands on the question was an indication that there was little support for the convention. Indeed, the editorial indicated that there was no "organized public" in favor of a convention.<sup>16</sup> Right down to election day the Times urged a "No" vote.<sup>17</sup> (R-3, R-4)

On the other hand, from a few significant political sources came endorsements for a convention. Democratic Governor Herbert H. Lehman, New York City Mayor La Guardia, and the American Labor Party supported the convention's calling.<sup>18</sup> When the votes were tallied,

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<sup>14</sup>Guthrie S. Birkhead, A Right To Choose--The Prospective Constitutional Convention in New York State (Syracuse: Syracuse University Press, 1957), p. 18.

<sup>15</sup>O'Rourke, op. cit., p. 63.

<sup>16</sup>The New York Times, October 27, 1936, p. 24.

<sup>17</sup>Ibid., November 2, 1936, p. 20.

<sup>18</sup>O'Rourke, op. cit., pp. 63-64.

Lehman and Roosevelt were re-elected, and New York was to have its eighth constitutional convention. Five million, six hundred ninety thousand, ninety-three votes were cast for gubernatorial candidates, 2,603,879 votes were cast for or against a convention. Of those, 1,413,604 favored a convention. Four of the five counties in the New York City area favored the convention. Only one of fifty-seven upstate counties--Albany--desired a convention. As the parties were apathetic, so the voters were also. Where they were urged to vote "Yes"--in New York City, stronghold of Lehman, La Guardia, and the American Labor Party--those that voted, responded with a two-to-one margin favoring a convention and were able to swing the entire state.<sup>19</sup> (R-5)

#### D. PREPARATIONS FOR THE CONVENTION

In Governor Lehman's message to the legislature on January 6, 1937, he recommended the establishment of a special commission to engage in preparatory research work for the convention. He expressed the desire that a non-partisan commission be appointed. The legislature could have gone along with his recommendation and specified just how the members of the commission were to be appointed. As a matter of fact, they did just that in 1956. However, in 1937, the Democratic Senate went along with Lehman and passed a Bill. The Republican Assembly, on the other hand, took no action. After the legislature adjourned, Lehman decided to appoint his own "unofficial" preparatory

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<sup>19</sup>Ibid., p. 64.

committee.<sup>20</sup> Lehman believed that the preparatory phase of the convention was very important. He said:

"Without adequate preparation, there will inevitably be great waste of money, time and effort to the end that the very objects of the convention may well be defeated.

"As governor, I therefore feel it my duty to establish an unofficial committee, non-partisan and non-political in character and in motive, to undertake and direct the preparation and publication of accurate, thorough, and above all, impartial factual studies on the important phases of government certain to be considered at the constitutional convention."<sup>21</sup>

On July 8, 1937, forty-two persons were named to the committee.

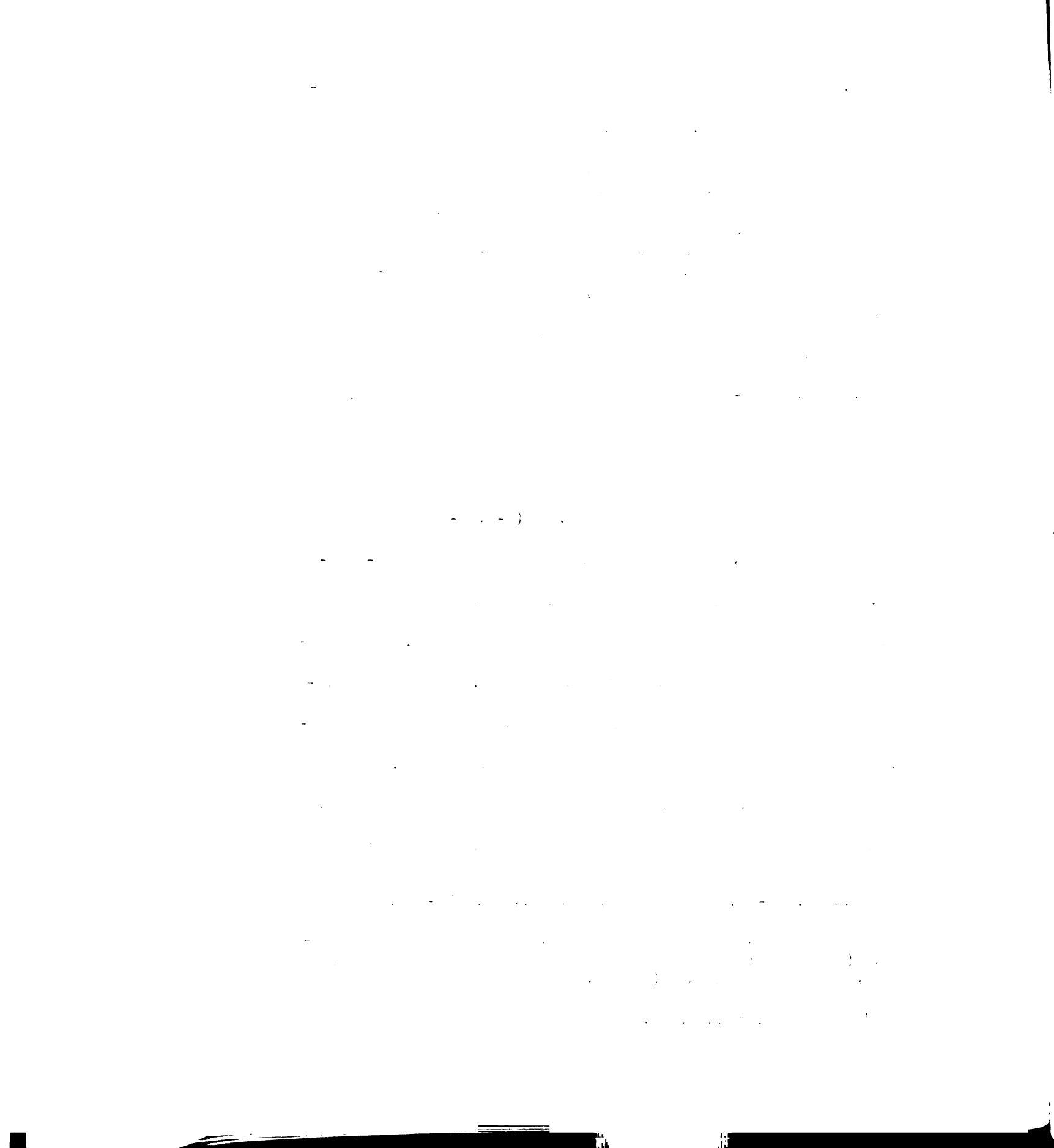
Their chairman was Charles Poletti, a member of the New York State Supreme Court and subsequently elected as a delegate to the convention and later Lieutenant Governor of the State.<sup>22</sup> (S-1, S-2)

In the Fall of 1937, the committee created six working sub-committees. Each of the six, aided by a research staff, worked on an area of the constitution likely to be considered by the convention. Each sub-committee published a volume report of its findings. Five general research volumes were also published, as was an index to the eleven volumes. The volumes cover almost two feet of a library shelf. Their existence led Frank P. Grad of Columbia University to write in 1960, "The 1938 New York Constitutional Convention was the most thoroughly

<sup>20</sup>Ibid., pp. 66-67, and Feldman, op. cit., pp. 336-337.

<sup>21</sup>Fred Steingold, "Preparing for the Michigan Constitutional Convention," (Ann Arbor: Institute of Public Administration, University of Michigan, April 4, 1961), p. 5 (Mimeo.)

<sup>22</sup>O'Rourke, op. cit., p. 85.



prepared of all recent conventions."<sup>23</sup> The research was completed in March, 1938, a month before the convening of the convention.<sup>24</sup> The cost of the research work was \$65,000. Early in its existence the Committee attempted to get funds for the research from private foundations. These efforts were not successful. However, the legislature, in 1938, apparently satisfied with the results of the research, indirectly appropriated the \$65,000.<sup>25</sup> The legislature early in its 1938 session also appropriated \$1,300,000 for the operation of the convention.<sup>26</sup> (S-2, S-3)

#### E. ELECTION OF DELEGATES

The political party leaders of New York did not expect the people of the Empire State to call a convention for 1938. However, when the 1936 vote came in, the parties wasted no time in getting ready for the campaigns ahead. Three delegates would be chosen on a party ballot from each of the state's fifty-one senatorial districts and fifteen delegates would be selected at-large, also on a party ballot.<sup>27</sup> (A-2)

In the election of 1936, the state senate had swung from Republican

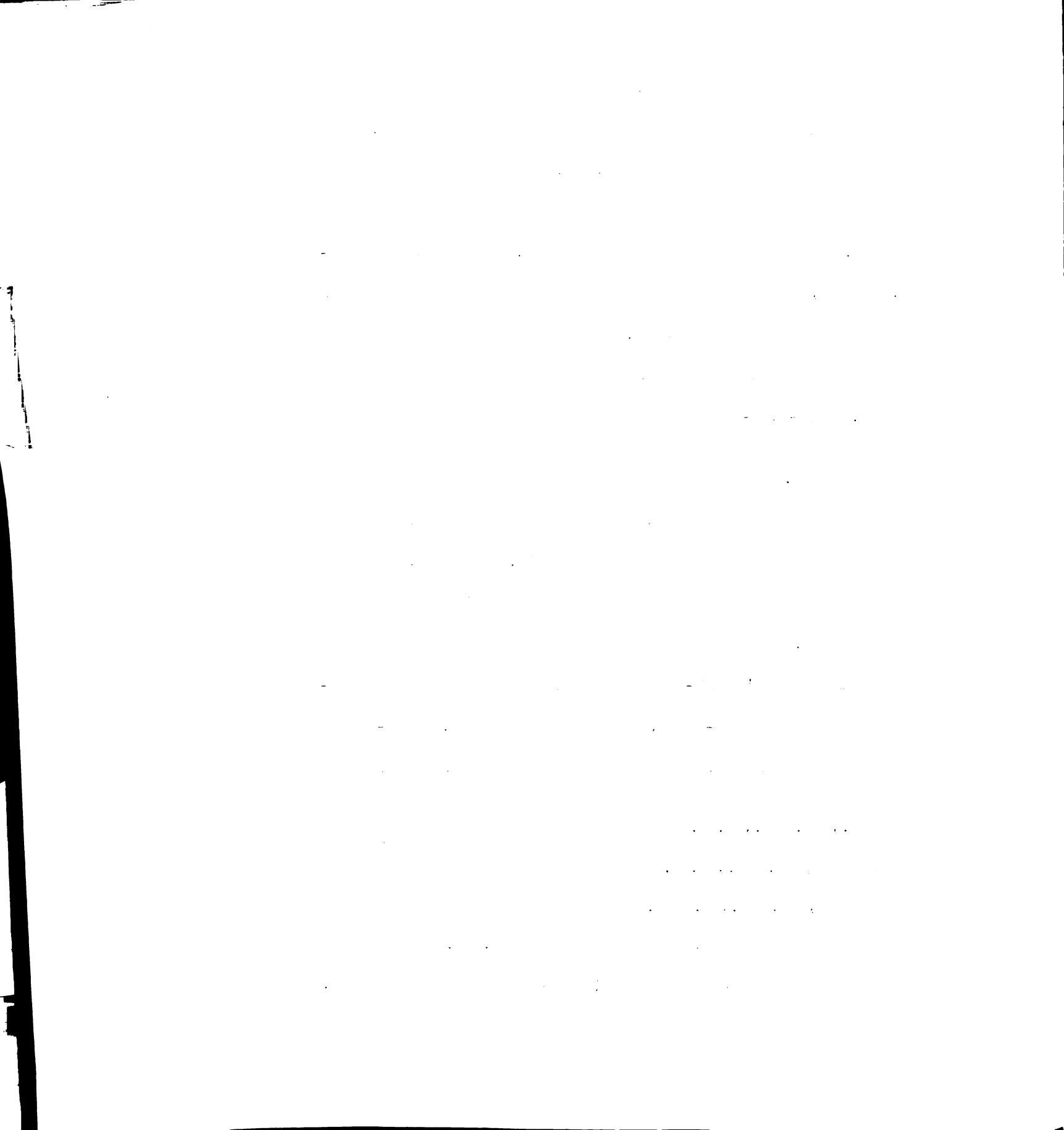
<sup>23</sup>Grad., op. cit., p. 8.

<sup>24</sup>Steingold, op. cit., p. 6.

<sup>25</sup>Feldman, op. cit., p. 337.

<sup>26</sup>The New York Times, February 25, 1938, p. 18.

<sup>27</sup>State of New York, Constitution (1895), Article XIV, Section 2.



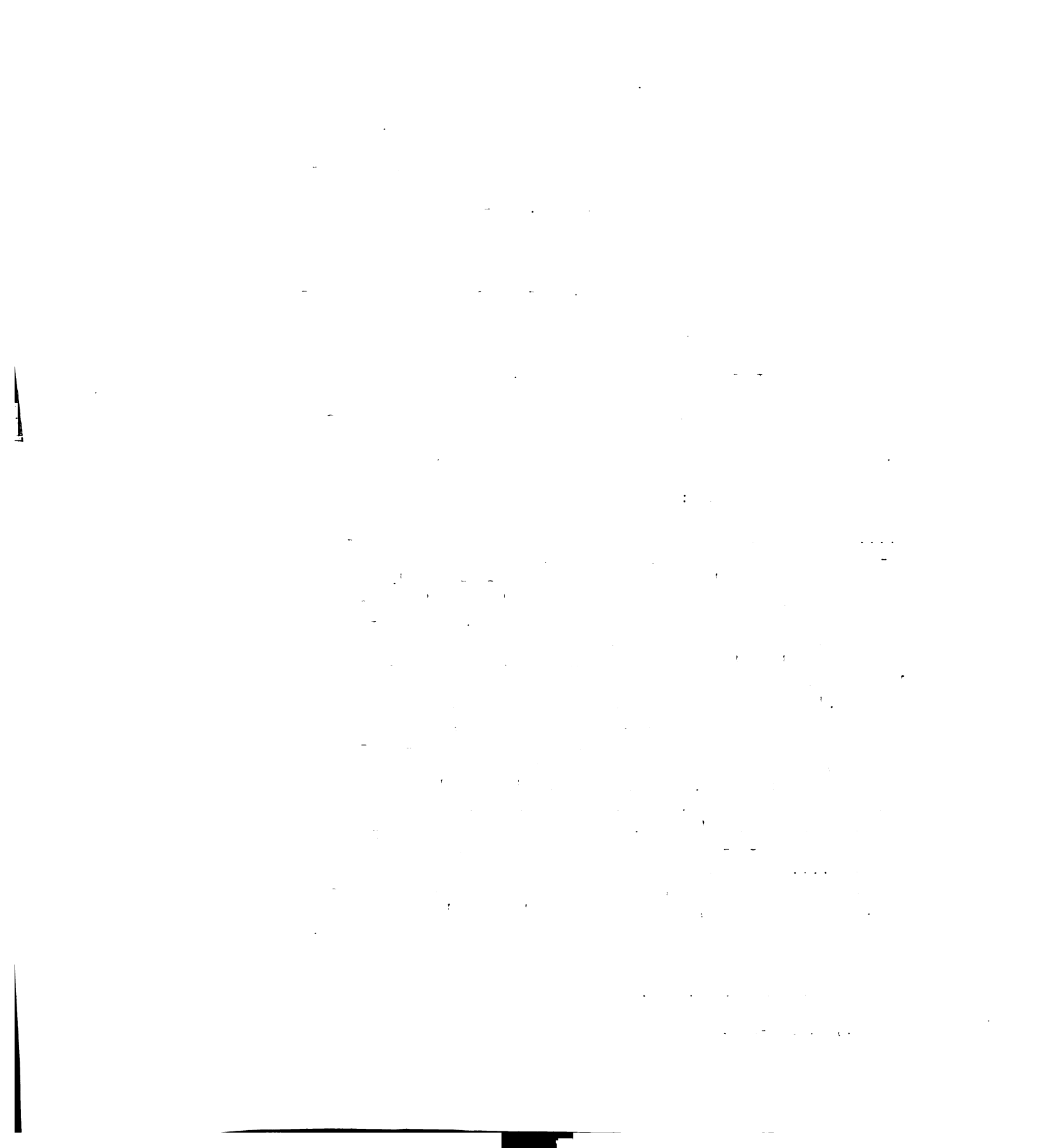
control to the Democratic control. It appeared that the Democrats would have a good opportunity to win control of the convention. The district primaries for the selection of the 153 senatorial district delegates were scheduled for September 16, 1937. (A-3) The general elections for all 168 delegates would be held in November, nearly five months before the start of the convention. (A-1, A-7) The State Attorney General issued two contradictory opinions in reference to the way the fifteen delegates-at-large would be selected. At first he contended that the fifteen would be selected in a bloc as electoral votes are selected.<sup>28</sup> His second opinion based on the same statute, as quoted by Franklin Feldman, states:

"...It is clear that the names of the candidates for delegate-at-large will not appear on the machine, but merely the party name and the words 'Constitutional Delegates-at-Large'. Nevertheless, the voters must be accorded 'suitable' opportunity to vote as they desire for such candidates. The provisions of Section 260 of the Election Law indicate that the irregular or 'split' ballot must be affixed to, or written in 'the receptacle or device provided on the machine for that purpose.' There is a vast and real distinction between the purpose of the presidential electors of each party, as the Electoral College has evolved in our national system of government, on the one hand and the delegates to a Constitutional Convention of the State. By providing for 'straight' party balloting on the machine, the Legislature cannot work a violation of the voters' rights. The Constitution provides for fifteen delegates-at-large to be selected by the electors of the State.... The voters must be accorded full opportunity to vote for fifteen candidates, be they of one, or more, or no parties. You are advised, therefore, that a 'suitable' and adequate method of voting individually must be made available to the voter."<sup>29</sup>

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<sup>28</sup>Feldman, op. cit., p. 340.

<sup>29</sup>Ibid., p. 340-341.





The parties in New York were not fully unified; splinter parties competed for the favor of both parties. The Democrats in New York City were somewhat split between supporters of Governor Lehman and the anti-New Deal Tammany machine. However, very few primary battles developed. The party organizations composed the primary rolls and there were very few candidacies contested. A Tammany slate of Democrats went unopposed in New York City. In the New York City area, with sixty-nine candidates to be chosen for each party, only nine contests developed for the September elections. Outside the City, there were only six contests for both parties. Of 306 candidates to be selected, only fifteen were opposed.<sup>30</sup> (B-1)

Vernon A. O'Rourke and Douglas W. Campbell, two political scientists who wrote about the New York Convention, described the lack of voter participation in the primaries:

"With the party organizations in such complete and undisturbed control of nominations, it is not surprising that the primaries did not arouse popular interest or participation. Even in those cases, however, where there was a challenge to the organization candidates, the evidence of popular interest was slight. The percentage of popular participation (based on the total registered voters) in the fifty-seven up-state counties was very low. In three-fourths of the counties, popular voting was under seventeen per cent. The median stood at ten per cent. In one case no votes were cast."<sup>31</sup> (B-2, B-3)

The nomination of delegates-at-large was placed directly into the hands of the parties. The fifteen Republicans were chosen by the

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<sup>30</sup>O'Rourke, op. cit., p. 73.

<sup>31</sup>Ibid., pp. 73-74.

executive committee of the party's state committee. Eight of the fifteen were from New York City. On the Democratic side, State Chairman James Farley proposed to the state committee a slate containing no Tammany Hall candidates. Governor Lehman was offered a spot on the slate but refused it. Farley's slate was adopted.<sup>32</sup>

There were some sounds heard asking for non-partisan elections. Notable was Supreme Court Justice Charles Poletti's eleventh hour wish made in front of the League of Women Voters. However, no such sounds were ever given the strength to be heard where they could do any good. Partisanship was the theme of the day.<sup>33</sup> (B-2)

On June 18, 1937, the State Attorney General John J. Bennett ruled that any citizen over twenty-one who was a resident of New York State could be a candidate for election as a delegate. There was no disqualification because candidate held a constitutional office. Judges, assemblymen, and senators were eligible as were all other public officials. The candidates did not even have to be residents of the districts they desired to represent. (A-5) Each delegate to the convention received \$2500 and one round trip mileage expenses to Albany for his services.<sup>34</sup> (A-6) This was the same compensation that was given to the members of the General Assembly. Delegate vacancies that occurred

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<sup>32</sup>Ibid., pp. 74-76.

<sup>33</sup>The New York Times, October 16, 1937, p. 7:5.

<sup>34</sup>Ibid., June 19, 1937, p. 8.

would be filled by a person selected by the two remaining delegates from the senatorial district. If the vacancy came as a result of the retirement of a delegate-at-large, the remaining fourteen delegates-at-large would select the new delegate.<sup>35</sup> (A-4)

On November 2, 1937, the voters turned out for the election of delegates in proportions larger than expected. The median county showed a turnout equalling seventy per cent of the turnout for the gubernatorial election of the previous November. On November 2, there was also a state wide election for a Justice of the State Court of Appeals, the state's highest court. There was no real contest for this post, but the voters did have other ballot choices offered to them. Outside of New York City many county offices were up for grabs. In the City, Supreme Court Judges, Congressmen, a Mayor, a District Attorney, and many other officials were elected.<sup>36</sup>

#### F. RESULTS OF ELECTIONS

The election did not result in a Democratic victory as many believed that it would. Each of the fifty-one districts, save one, had a full slate of major party candidates. One upstate district offered three Republicans and only one Democrat for the voters' scrutiny. In another district, one candidate was on the ballot as both a Democrat and a

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<sup>35</sup>State of New York, Constitution (1895), Article XIV, Section 2.

<sup>36</sup>The New York Times, October 31, 1937, Section II, p. 4.

Republican.<sup>37</sup> The Republicans regained the upstate areas that had caused the state senate majority to be Democratic. The Democrats carried only eight of the eighty-four delegate seats in the upstate regions.

The New York City vote was not nicely split between the two major parties as it was upstate. The American Labor Party and the City Fusion Party, another independent group, were active in the campaigns. Eighteen of the twenty-three City districts, providing fifty-four of the delegates, went to the Democratic Party completely. The Republicans, supported by the City Fusion, carried two districts, six delegates, completely. In one of the other three districts, a Republican supported by American Laborites was elected along with two Democrats. In another, an "independent Democrat" was elected with Republican, Fusion, and Laborite support, along with two Democrats. In the remaining district, one Laborite was elected along with two Democrats. In all, sixty Democratic delegates and eight Republican or Republican-supported candidates along with one American Labor candidate were elected.<sup>38</sup> For all senatorial district races the score was 84 to 68 in favor of the Republicans with one seat going to a third party. The Democrats lost several seats, as was seen, because they did not have the solid backing of the American Labor Party.

However, if the American Labor Party would have supported all

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<sup>37</sup>Idem.

<sup>38</sup>O'Rourke, op. cit., pp. 77-79.

fifteen of the Democratic at-large candidates, the convention would have seen a virtual deadlock between the two parties. The Republican State Committee had refused to run Mayor La Guardia as an at-large candidate and thereby lost an opportunity to gain splinter party support. But the Democratic slate was not wholly acceptable to the minor parties either. The City Fusion group fully endorsed the Republican slate.<sup>39</sup> The American Labor Party endorsed two Republicans, seven Democrats, and six candidates of their own. This Laborite action determined the results of the election. The Labor group drew nearly 400,000 votes, most of them in New York City. With nearly complete returns in, the Republican slate led the Democratic slate as a whole by less than 100,000 votes. Therefore, the seven Democrats that were also on the Laborite slate were elected. The two Republicans on the Labor ballot and six other Republicans were also elected. The final composition of the convention at its beginning then, was 91 Republicans, 76 Democrats and one American Laborite.<sup>40</sup> (B-4)

The election was a clear-cut victory for the Republicans. However, New Deal Democrats were not too grieved over the results. The New Dealers, led by Postmaster General James A. Farley, also state chairman of the party, conducted a hard fought campaign. But they knew before the election that they, as New Dealers, would not be

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<sup>39</sup>The New York Times, October 24, 1937, p. 34.

<sup>40</sup>Idem. and O'Rourke, op. cit., p. 79.

a convention majority. Farley's group saw that the convention majority would go to either the anti-New Deal Democrats led by Al Smith, or to the Republicans. In any event, New Deal Reforms would probably not be adopted, and Farley would rather place the responsibility for such failures on the Republicans than on Democrats.<sup>41</sup>

The 168 delegates were chosen in a manner conducive to the interjection of a high degree of partisanship into their numbers. All seven of the Democratic-at-large candidates were quite active in party affairs. They included a member of the United States House of Representatives, a member of the United States Senate, a judge and an executive officer of the state--both elected on a statewide partisan ballot, a member of the State Supreme Court, a state committeeman who was also State Conservation Commissioner, and a man described as an "elder statesman" in the state party. The Republican at-large delegates were just as party oriented. They included two state senators, a state assemblyman, a member of the State Court of Appeals, and three members of the State Supreme Court.<sup>42</sup>

#### G. THE DELEGATES

The delegates as a whole were party oriented; this was not a characteristic reserved for the at-large delegates. O'Rourke and Campbell found that only about thirty of the 168 were without "ascertainable

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<sup>41</sup>The New York Times, November 3, 1937, p. 1.

<sup>42</sup>O'Rourke, op. cit., pp. 84-85.

important party service or connections." Two-thirds of the delegates had held elective public office. One-third of the delegates were public officers at the time of the election. Political Scientists Vernon A. O'Rourke and Douglas W. Campbell list the political positions held by the delegates.

"There were eight Assemblymen (and eleven ex-Assemblymen), eight Senators (and fifteen ex-Senators), three Congressmen (and one ex-Congressman), and one United States Senator. There were also three elected State administrators. The largest category of incumbent officer-holders came from the judiciary, with twenty-six delegates--eleven Supreme Court Justices, four from the Appellate Division of the Supreme Court, two judges of the Court of Appeals, and the other nine from the minor courts."<sup>43</sup>

Reiterating, there were thirty-seven delegates who held partisan elective office at the state or national level at the same time they were delegates. Twenty-seven other delegates had previously held such offices. (C-1)

The months of convention deliberations did not temper the desires of the delegates for political activity. Nineteen thirty-eight was also an election year and several delegates were candidates. (T-2) In November, eight of the delegates ran for offices on a statewide ballot. Others ran for offices with more narrow constituencies. Two ran for Congressman, six ran for the state assembly, and six ran for the state senate.<sup>44</sup> All twenty-two of these delegates survived the primaries and

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<sup>43</sup>Ibid., p. 83.

<sup>44</sup>State of New York, Legislative Manual (1939).

state conventions of their parties. It is conceivable that many others sought political offices during the year and failed to be nominated. At least two of the delegates, one Republican and one Democrat, were mentioned as possible candidates for the governorship. However, the state conventions of the two parties bypassed these two for Governor Lehman and Thomas E. Dewey.<sup>45</sup> (C-2)

Occupationally, it was a lawyers' convention. One hundred twelve of the delegates were lawyers.<sup>46</sup> (C-4) The remaining delegates were scattered among several occupations. Categories of real estate, insurance, newspaper publishing, and morticians each were represented by four delegates. There was but one farmer. Only four per cent (six) of the delegates were women.<sup>47</sup> (C-5) O'Rourke and Campbell report that "the age distribution was not out of balance." They found that there were approximately the same number of delegates between thirty and fifty years as over fifty years of age.<sup>48</sup> (C-3)

The 168 delegates convened in the General Assembly chamber of the State Capitol on April 5, 1938, and remained until August 26, at which time they had completed proposals for the revision of the entire 1895 Constitution. (T-1)

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<sup>45</sup>O'Rourke, op. cit., p. 139, and The New York Times, March 2, 1938, p. 6.

<sup>46</sup>The New York Times, April 24, 1938, Section IV, p. 10.

<sup>47</sup>O'Rourke, op. cit., p. 84.

<sup>48</sup>Ibid., p. 86.



## H. RECAPITULATION

New York held its constitutional convention during 1938, an election year. The competition between the two parties was intense, yet the parties were not as ideologically far apart as in Michigan in 1962. There was no concerted effort on the part of the parties or of interest groups in behalf of holding a convention. The Governor and New York City's mayor did support the calling of a convention, but neither worked for having a convention. The convention became a reality because the question of its creation appeared on the ballot automatically in 1936. A minority of voters casting ballots in the 1936 elections bothered to record a decision on the convention question. Fifty-four per cent of this minority favored the convention. The legislature could not agree upon the creation of a convention preparatory commission, so the Governor took the lead by appointing an unofficial committee. The committee provided for a substantial amount of preparatory research. The legislature later financed the efforts of the committee. The legislature also appropriated operational funds for the convention.

One hundred sixty-eight delegates, 153 from senatorial districts and fifteen from the state at-large, were elected in primary and general elections held over five months prior to the start of the convention. There was very little competition in the primaries, and voter turnout was correspondingly low. However, voter turnout approached seventy per cent of the 1936 gubernatorial turnout. In the general election the

political parties were noticeably active. No public officials were declared ineligible to become delegates. A large number (38%) of the delegates were current or former public officials (state or national level). Delegate vacancies were filled through appointments made by remaining delegates. The delegates each earned a salary of \$2500 for four and one-half month's work. Among the 168, four per cent were women, sixty-seven per cent were lawyers, and a large portion were candidates for partisan office in the 1938 elections. The Republicans had a delegate majority of 91-76-1 (American Labor).

### III. MISSOURI

#### A. REVISION OF 1875 DOCUMENT

In November, 1942, the voters of Missouri, by a vote of 366,018 to 265,294 called the sixth constitutional convention of that state into being. (R-2) An Amendment adopted in 1920 to the 1875 constitution provided that the question of holding a convention should appear on the ballot in 1921 and every twenty years thereafter.<sup>1</sup> (R-2) The 1921 election resulted in the calling of the 1922-1923 constitutional convention. However, the major share of that convention's work was rejected at the polls in 1923. Charlton F. Chute, Director of Research of the Missouri Committee on Legislative Research, believes that the failure of the convention was a "failure to inform the voters adequately on the

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<sup>1</sup>Charlton F. Chute, "The New Constitution of Missouri," State Government, XVIII (February, 1945), p. 111.

nature of the proposed constitutional changes."<sup>2</sup> Constitutional conventions in Missouri have the power to appropriate funds for their own use. Therefore, the conventions are not dependent upon the legislature for their existence, or the length of their session. The convention also had the power to revise the entire state constitution. (T-1) A legislature could submit the question of holding a convention to the people by a majority vote in each house; however, this was never done during this century. (R-1) Utilizing their unique independence, the 1922-1923 convention took an excessive amount of time in completing their task. This may have been a reason for the defeat of their work, as the public lost confidence in the body because of its lengthy deliberations.

#### B. CAMPAIGN FOR A CONVENTION

Although the work of the 1922-1923 convention was rejected by the voters, the vote calling for the convention indicated a dissatisfaction with the 1875 document. That dissatisfaction continued to increase in the years following the 1923 vote, reaching "critical proportions" by World War Two.<sup>3</sup> Robert F. Karsch of the University of Missouri mentioned that "practically every 'good government' association in the state was voicing various objections to the constitution and calling for the

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<sup>2</sup>Idem.

<sup>3</sup>Robert F. Karsch, "A Missouri Constitutional Convention in 1963?" Missouri Law Review, XXV (January, 1960), p. 50.

drafting of a new one."<sup>4</sup>

Supporters of constitution revision knew that a vote would be taken in November, 1942, so they set about getting a favorable vote at that time. The National Municipal League played a significant role in emphasizing the needs for constitutional revision. Chute writes:

"For some time the civic leaders in St. Louis had wanted to bring the National Municipal League's National Conference on Government to the city, and arrangements were made for this conference to be held in November 1941. A program committee of local leaders was created who decided that a new state constitution was the most important issue in the state and that it would be wise to relate a large part of the conference program to it."<sup>5</sup>

Professor J. E. Reeves of the University of Kentucky describes the campaign for a favorable vote on the 1942 question:

"More than a year before the election, an active campaign for constitutional revision was started. A statewide committee was created, local committees were organized, and money was collected for the campaign. Endorsements by and assistance from civic, professional, and other organized groups were sought and obtained. Radio time and press support were secured. Speakers were sent out over the state, and a constitutional day was held on which programs, radio time, and newspaper space were devoted to the need for constitutional revision.

"In Missouri educators and the League of Women Voters were instrumental in getting the campaign started, and they remained active participants throughout. However, political leaders, on a bipartisan basis, and civic leaders were soon found in the most prominent positions in the campaign. The Republican Party endorsed the call for a convention; and

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<sup>4</sup>Idem.

<sup>5</sup>Charlton F. Chute, "How To Get a New Constitution," National Municipal Review, XXXVI (March, 1947), p. 126.

although the Democratic organization failed to do so, sixty prominent Democratic leaders did endorse it." <sup>6</sup> (R-4)

However, not all were favorable to the idea of holding a constitutional convention. Martin L. Faust of the University of Missouri differs in the position taken by Reeves. Faust says that "political parties and their office holders generally did not support the convention movement. The incumbent Republican governor refused to take a stand. Some of the high ranking Democratic officials actively opposed the movement." <sup>7</sup> (R-3)

### C. POLITICAL ATMOSPHERE

The Missouri Constitutional Convention was not conducted in the atmosphere of extreme political partisanship. Unlike the situation in Michigan, Missouri had no great cleavages between the Democrats and the Republican Parties. Unlike the era of the New York Convention, Missouri's convention was not held during years of economic upheaval. The Missouri Convention was held during war years. It should be expected that political partisanship would be at its lowest ebb during the years of the greatest external threat to the political system.

A few years prior to the convention, Missouri might have been viewed as a state with intense party rivalries. The Pendergast Machine in

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<sup>6</sup>J. E. Reeves, "The Constitution-Making Process," Kentucky Law Journal, XXXVI (November, 1947), p. 67.

<sup>7</sup>Letter from Martin L. Faust, Professor of Political Science, University of Missouri, to Author, May 24, 1962.

Kansas City gave its strong support to the Democratic gubernatorial candidates it had selected in the primaries. The battles between the Democratic Machine and the forces of the Republican Party could be viewed as active rivalries. But in 1936 the Machine erred in selecting to lend its strength to gubernatorial candidate Lloyd Stark. Instead of remaining loyal to the machine, Stark instigated reforms which led to Tom Pendergast's imprisonment in 1940.<sup>8</sup> Ironically, but not unexpectedly, Stark's reform activity led to the downfall of his own party. With the power of the machine gone, the Republican gubernatorial candidates were victorious in 1940 and again in 1944. The demise of the Pendergast Machine took the last vestige of centralized control away from the Democratic Party. No individuals were able to exercise commanding authority within the party. Nor were single groups able to offer effective leadership. Labor was too small. Business interests did not really care.<sup>9</sup> The Republicans were able to capitalize on the Democrat's decentralized status, but this did not mean that the Republicans were a unified party. The downfall of Pendergast made Kansas City a lucrative source for Republican votes. However, there was a high degree of antipathy between the Kansas City Republicans and their rural counterparts.<sup>10</sup>

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<sup>8</sup>John H. Fenton, Politics in the Border States (New Orleans: The Hauser Press, 1957), pp. 133-134.

<sup>9</sup>Ibid., p. 149.

<sup>10</sup>Interview with Bernard Klein, Director of the Lansing Office of the Institute of Public Administration, University of Michigan, July 12, 1962.

The times were not conducive to a high degree of partisanship. Party alignments were not economically based so as to accentuate feelings of partisanship. And Missouri did not offer the political rewards usually sought in intensely contested elections. The legislative apportionment issue was of large importance, but the race for the governor's seat was not of such importance. The office was recognized as weak, because the governor had little control over the legislature. He could not be re-elected after he had served his four-year term.<sup>11</sup> The Missouri Convention was held at a time and within a system which did not create an atmosphere of extreme political strife. The war years, the demise of the Pendergast Machine, and the weakness of the office of governor tended to lessen the intensity of the battles between the Republican and Democratic Parties. (T-3)

#### D. PREPARATIONS FOR THE CONVENTION

Preliminary research work for the convention was initiated by the State-Wide Committee for the Revision of the Missouri Constitution. This group was appointed by the Governor after the favorable November vote on the convention question.<sup>12</sup> Professor Martin L. Faust of the Political Science Department at the University of Missouri coordinated research volunteered by several Missouri colleges and groups.

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<sup>11</sup>Fenton, op. cit., pp. 135-136.

<sup>12</sup>Grad., op. cit., p. 18.

Nine manuals of fifty to one hundred pages each were available for the delegates use on the date of the convention's convening.<sup>13</sup> A convention library was set up; the delegates also had access to the Supreme Court Library. The reference sources available were adequate for the needs of the convention.<sup>14</sup> (S-3)

The legislature, in 1943, passed an appropriation bill financing the preparatory research work. (S-2) However, the bill was vetoed by the Governor. (S-1) He had no objection to the substantive nature of the legislation, rather he objected to the form of the bill. There was no further legislative action in reference to the convention. No appropriation bills were needed for the convention as the convention could appropriate its own operating funds.<sup>15</sup>

#### E. SELECTION OF DELEGATES

The state of Missouri has institutionalized a bipartisan approach to constitutional conventions unique among states with recent conventions. The approach was followed in both the 1922-1923 and 1943-1944 conventions. The 1875 constitution as amended in November, 1920, and rewritten for 1945, describes the details of the process of electing the delegates:

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<sup>13</sup>Steingold, op. cit., p. 7.

<sup>14</sup>Grad., op. cit., p. 20.

<sup>15</sup>Letter from Martin L. Faust, Professor of Political Science, University of Missouri, to Author, May 24, 1962.



"...the election of delegates to the convention (is to be) on a day not less than three nor more than six months after that on which said question shall have been voted on. The electors of each senatorial district of the state... shall elect two delegates... and the electors of the state voting at the same election shall elect fifteen delegates-at-large...; each delegate shall possess the qualifications of a senator; and no person holding any other office of trust or profit (national guard officers, school directors, justices of the peace and notaries public excepted) shall be eligible to be elected a delegate to the convention nor during the term for which he shall have been elected or appointed. In order to secure representation from different political parties in each senatorial district, each political party as then authorized by law to make nominations for the office of state senator in each senatorial district shall nominate only one candidate for delegate from such senatorial district, and such candidate shall be nominated in such manner as may be prescribed by the senatorial committee of the respective parties, (there were no primaries), and such candidate shall be voted for, each on a separate ballot with emblem or party designation, and each elector shall have the right to vote for one of such candidates, and the two candidates receiving the highest number of votes in each senatorial district shall be elected; and all candidates for delegates-at-large shall be nominated by nominating petitions only... and... (they) shall be signed by electors of the state, equal in number to at least five percentum of the entire vote cast for governor at the last general election in the senatorial district in which such candidates reside; and all candidates for delegates-at-large shall be voted for upon one independent and separate ballot without any emblem or party designation whatever, and the fifteen candidates for delegates-at-large receiving the highest number of votes shall be elected."<sup>16</sup> (A-2, A-3, A-5)

The article goes on to specify that the compensation for each delegate shall be ten dollars a day and "mileage as provided by law for the members of the general assembly." (A-6) Vacancies were to be filled by gubernatorial appointments of delegates from the same party of the

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<sup>16</sup>State of Missouri, Constitution (1875), Article XV, Section 3, as amended November, 1920.

delegate being replaced.<sup>17</sup> (A-4) There were eighty-three delegates in the convention. (A-1)

Robert Karsch of the University of Missouri conducted a survey among fifty-five of the surviving delegates to the convention. They showed a widespread approval of the plan of selecting delegates. However, some registered disapproval over the fact that the people had no choice in the final election. Karsch pointed out that some element of choice was possible in the early stages of the system in the selection of each party's district candidate. "How far this becomes a reality," stated Karsch, "depends on whether the party's district committee decides to call a convention for naming the nominee, makes the selection itself."<sup>18</sup> The elections were held on April 6, 1943, more than five months before the start of the convention. (A-7) In bidding for the favor of the public, both Republican and Democratic State Committees recommended that the senatorial district committees call mass meetings in their districts for the purpose of choosing representatives to a district convention, which, in turn, would select the party's delegate to the convention. In St. Louis each district's party committee held a public rally. However, the rallies were mainly attended by party workers and not by the general public. Outside of St. Louis very few public meetings were held. Delegates, in the main,

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<sup>17</sup>Idem.

<sup>18</sup>Karsch, op. cit., p. 60.

were selected directly by the senatorial district committee.<sup>19</sup> In the thirty-four districts there were no third-party candidates, hence absolutely no choice was given to the voter in selecting sixty-eight delegates.<sup>20</sup> (B-1, B-2) This was a cause for considerable public complaint. This was the main reason why nineteen of the fifty-five delegates surveyed by Karsch found fault with the selection process. Although the results of the formal election for sixty-eight seats had no meaning to the convention, it can be noted that in nineteen of the thirty-four districts the Democratic delegate received more votes than the Republican delegate. Yet, over-all the thirty-four Republican delegates outpolled the thirty-four Democrats. So without the bipartisan system, the apportionment of seats would have favored the Democrats.<sup>21</sup>

Whereas the parties completely dominated the selection of sixty-eight delegates, they were less effective in dictating the choices of the fifteen remaining delegates. In 1922 the two party committees agreed to propose a bipartisan slate of fifteen delegates-at-large. They did so and their slate was successful at the polls. The party groups proceeded to do the same in 1943. The parties met to choose their bipartisan slate in March, after petitions had already been filed. The two parties had not

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<sup>19</sup>Schmandt, op. cit., p. 237.

<sup>20</sup>Missouri Journal, Appendix, pp. 74-77.

<sup>21</sup>Idem.

taken efforts to have any particular candidates nominated. Therefore, they had to choose their slate from among the thirty-seven candidates already nominated. Civic groups such as the League of Women Voters had secured necessary signatures for several of the candidates nominated. Of the thirty-seven, twelve were Republicans; only three of these had been active in party affairs. There were thirteen Democrats, only three of whom had been party actives. The slate of fifteen would therefore have to have a majority that were not active in politics. The Republicans selected seven Republicans; the Democrats selected seven Democrats; the fifteenth candidate was agreed to by both parties. He was an anti-New Deal Democrat. Of the fifteen, eight were endorsed on a League of Women Voters<sup>1</sup> slate. Three of these eight were Democrats and five were Republicans. Seven members of the League slate were not given a position on the bipartisan slate.<sup>22</sup> (B-1, B-2)

The delegates-at-large were not voted upon as a group but were voted on individually. Each voter cast fifteen votes. By the election date, thirty-four candidates were still in the field. It is difficult to believe that the bipartisan slate would have been successful without the aid of the Secretary of State. Secretary of State Dwight Brown placed the parties<sup>1</sup> slate at the top of the ballot, first listing the fifteenth member of the slate, then alternating the Republicans and Democrats remaining on the slate. The voters were thereby able to knowingly cast

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<sup>22</sup>Schmandt, op. cit., p. 238.

a vote for each candidate on the slate. It would have been much more difficult for them to have picked the names out of the thirty-four if they had not been in a group. Another advantage also accrued to the group in that it was placed at the top of the ballot. To no avail, the League of Women Voters complained about the Secretary of State discretion. The League waged an active campaign for their slate, and though they were not fully successful, their efforts were noticeable in the election returns.<sup>23</sup> The eight endorsed candidates who were also on the bipartisan slate received from 127,805 to 155,471 votes each. The seven bipartisan non-League candidates received from 90,992 to 106,117 votes. The League's endorsement was worth at least 21,000 votes. The other League Candidates, though unsuccessful, ran far ahead of the other twelve candidates who were non-endorsed. The highest of these League candidates received 81,830 votes.<sup>24</sup> It is most conceivable that many of these, some observers believe all of these,<sup>25</sup> would have become delegates had not the Secretary of State given the parties' candidates the ballot "edge."

The April election date was also local election day in St. Louis. In that city the delegates-at-large received a voter turnout of about twenty-five per cent. In Kansas City where there were no local elections

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<sup>23</sup>Ibid., p. 239.

<sup>24</sup>Missouri Journal, Appendix, pp. 68-73.

<sup>25</sup>Schmandt, op. cit., p. 241.

only six per cent bothered to vote. The median percentage of voters turning out statewide stood below fifteen per cent.<sup>26</sup> (B-3)

#### F. THE DELEGATES

The convention delegate line-up was almost perfectly bipartisan. There were forty-one Republicans and forty-two Democrats; one of the Democrats was selected by both parties. (B-4) It would be expected that the delegates were experienced in politics. They were. All eighty-three had been active in civic and political affairs in their local communities.<sup>27</sup> Only eight or ten delegates-at-large were without important public service experience.<sup>28</sup> A great majority of the delegates had held one or more public offices. Of these, one had been governor, two congressman, two constitutional convention delegates in 1922-1923, one the state treasurer, one the speaker of the House of Representatives, fourteen members of the House, ten members of the State Senate, six circuit judges, and twenty county officials--eleven of these being prosecuting attorneys.<sup>29</sup> (C-1)

Of the eighty-three delegates, forty-one (forty-nine per cent) were lawyers, six were farmers, five insurance men and four college

<sup>26</sup>Ibid., p. 240.

<sup>27</sup>Blake and Bradshaw, op. cit., p. 148.

<sup>28</sup>Schmandt, op. cit., p. 238.

<sup>29</sup>Blake and Bradshaw, loc. cit.

professors. (C-4) There were two women among the delegation.<sup>30</sup>(C-5)  
 The average of the delegates was fifty-five years at the start of the  
 convention.<sup>31</sup> (C-3)

On September 21, 1943, the convention convened in Jefferson City  
 at the State Capitol. The convention's work was not completed until the  
 latter part of 1944, an election year. (T-2) The 1945-1946 edition of  
 the Missouri Manual lists the candidates in the 1944 primary and gen-  
 eral elections. As many as seventeen of the eighty-three may have  
 run for state or national office in the August primary. (It is difficult  
 to state the number for sure, as the Manual did not list full names.)  
 At the most seven of the delegates survived to compete in the Novem-  
 ber general elections. (C-2)

#### G. RECAPITULATION

The question of calling a convention appeared on the Missouri  
 ballot automatically in 1942. The question was periodically submitted  
 to the voters each twenty years. In 1942, 58% of those voting on the  
 question favored the call. The favorable vote climaxed a long cam-  
 paign by "good government" groups. The periodic submission greatly  
 aided these groups. Political leaders were divided on the question of  
 having a convention. The parties did not take sides. In 1943, the

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<sup>30</sup>Schmandt, op. cit., p. 244.

<sup>31</sup>State of Missouri, Missouri Manual (1944-45).

Governor appointed a group which coordinated research activities prior to the convention. A moderate amount, not as much as in Michigan or New York, of research materials were prepared for the convention. The legislature appropriated funds for the research activities, but their efforts met a gubernatorial veto. No operational funds were appropriated as the convention had the authority to appropriate its own funds. The convention met in an atmosphere of political calm. A Republican majority controlled the state scene, whereas a world war lessened the degree of inter-party strife.

Eighty-three delegates were elected to the Missouri convention. Sixty-eight represented thirty-four senatorial districts, and fifteen were chosen from the state at-large. There were no primary elections. Parties chose the "senatorial" delegates, and the at-large delegates appeared on the ballot through petitioning. Each party, constitutionally, chose thirty-four delegates. The parties also agreed mutually to the selection of the fifteen at-large delegates subsequently elected. Popular interest in the election was, as would be expected, very negligible. The election came over five months before the start of the convention. Almost all public officials were ineligible to become delegates. Delegate vacancies were filled by the Governor, who had to appoint a delegate of the same party as the vacated delegate. The eighty-three delegates were each given \$10 a day as compensation for their efforts. Their average age was fifty-five years. Their numbers included 49% lawyers and 2% women. Forty-five per cent were former officeholders,



and about one-fifth sought elective office subsequent to the convention in 1944, the year the thirteen month convention ended.

#### IV. NEW JERSEY

##### A. METHODS OF REVISING THE CONSTITUTION

For the civic-minded citizen the 1947 New Jersey Constitutional Convention was the fulfillment of a seventy-five year old dream. That convention re-wrote a document originally prepared in 1844. The 1844 constitution failed to make any provision for a future constitutional convention. In this respect New Jersey's basic document was like that of twelve other states.<sup>1</sup> The document, seventh oldest in the United States at the time of the convention, provided that amendments could be proposed by a majority vote of both houses of two consecutive legislatures. Ratification was secured by a majority of electors voting favorably on the amendment.<sup>2</sup> Although the constitution in 1947 was the third shortest in the nation with its 6,276 words, the amendment process, which yielded thirty-two amendments, was generally regarded as inadequate for purposes of up-dating the state's basic law. The inadequacy stemming from a lack of provisions for major revision was recognized not

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<sup>1</sup>Charles C. Rohlfing, "Amendment and Revision of State Constitutions," Annals of the American Academy, CLXXXI (September, 1935), p. 182.

<sup>2</sup>Irby R. Hudson, "The Amending Process in State Constitutions," in Papers on Constitutional Revision, University of Tennessee Record (Knoxville: Bureau of Public Administration, University of Tennessee, XXIII, April, 1947), pp. 7-9.



too long after the constitution was written. John J. George, Rutgers University Political Scientist, wrote in his monograph prepared for the 1947 convention,

"Within thirty years after the adoption of the Constitution in 1844, its failure to provide for future conventions was recognized as a serious omission. Experience with the amending process has proved it practically unusable. Generally, the view is that governmental life at the constitutional level has become static in New Jersey. So great is the need for extensive change, that piecemeal amendment is recognized as inadequate.

"Such a situation has not burst upon us suddenly. Since 1873 nearly every governor has urged a constitutional convention to revise the entire instrument."<sup>3</sup>

A constitutional revision commission proposed a series of amendments which were adopted in 1875. These amendments represented the last substantial changes in the constitution prior to the convention.<sup>4</sup>

## B. EARLY STRUGGLE FOR GENERAL CONSTITUTIONAL REVISION

The demands for general revision became more vocal as the 1940's began. In 1941, Governor Charles Edison, a Democrat, requested the legislature to submit for popular consideration the question of holding a convention. The legislature denied him this request.<sup>5</sup> However in a

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<sup>3</sup>John J. George, "Amendment and Revision of State Constitutions," in New Jersey Proceedings, II, p. 1764.

<sup>4</sup>Rich, op. cit., p. 135.

<sup>5</sup>John Keith, "Recent Constitutional Conventions in the Older States," in W. Brooke Graves (ed.), State Constitutional Revision (Chicago: Public Administration Service, 1960), p. 44.

compromise gesture, the legislature authorized the creation of a constitutional revision commission of seven in 1941. Two members of the commission were appointed by Governor Edison, two by the President of the Senate, and two by the Speaker of the House. The seventh was chosen by the six others.<sup>6</sup> The commission considered the possibility of submitting a series of amendments to the constitution to the people as was done in 1875. This idea was rejected. Bennett M. Rich writes,

"Because of the number of amendments involved and the difficulty of working them into the old constitution, it was decided to draft a new constitution--notwithstanding the realization that authorization for preparation of a draft constitution was lacking in the law creating the commission."<sup>7</sup>

The commission reported to the legislature in May of 1942. They suggested that a public referendum be held on the question of having the legislature submit a new constitution to the voters in the November, 1942, elections. The legislature after holding lengthy hearings concluded that the current war made it inadvisable to take any action.<sup>8</sup>

The report of the commission included a draft of a revised constitution. Therefore, support of their recommendation to a degree depended on their proposed revisions. In any case, the commission did have widespread support throughout the state. James Kerney, the

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<sup>6</sup>James Kerney, Jr., "The Price of a New Constitution," National Municipal Review, XLI (January, 1952), p. 14.

<sup>7</sup>Rich, op. cit., p. 134.

<sup>8</sup>Idem.

seventh member of the commission, tells of the support for revision:<sup>9</sup>

"In the first place, the revision commission had the whole-hearted support of the press. It arranged a series of seminars for editorial writers and political correspondents to give them the greatest possible background on the proposed constitution. It was the commission's job to let the light of day into musty constitutional corners and, if our draft had any merits, the press and the public would respond. The press did respond immediately, in background news stories and vigorous editorial support.

"But newspaper support alone is not enough. Some of us got together to form a citizens' committee that could bring under one roof all the many groups who supported constitutional reform. We had in New Jersey a congeries of organizations interested in better government. There were the League of Women Voters, the state branch of the National Council of Jewish Women, the Federation of Women's Clubs, the Association of University Women. There were, of course, the two great houses of labor. There were the State Chamber of Commerce and the State Taxpayers Association. There were citizen groups in every area of the state.

"To be sure, not every organization approved of every principle in the proposed document. Labor, for instance, would have preferred elected judges and manufacturers would have preferred to keep collective bargaining out of the bill of rights. But, with the diplomatic advice of many intermediaries, these difficulties were submerged in over-all approval of our major purposes." (R-4)

Opposition to constitutional revision came from the entrenched political boss of Jersey City, Frank Hague, whose vested interest in the status quo was found in the judiciary which he influenced.

The rejection by the 1942 legislature was turned into an acceptance by the 1943 legislature. In November, 1943, the voters of New Jersey authorized the legislature, both houses acting jointly, to rewrite the

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<sup>9</sup>Kerney, op. cit., pp. 16-17

constitution, except for the Bill of Rights.<sup>10</sup> Governor Edge, a Republican, like his Democratic predecessor, had urged such a convention. The work of the 1944 legislature-convention body was submitted to the voters and rejected at the November general elections of that year.

The legislature-convention had done an adequate job, but in the process had incurred much opposition from the Hague regime. William F. O'Connor, writing for the Minneapolis Star,<sup>11</sup> gives his views of the defeat of the 1944 proposed constitution:

"Edge and the Republican party had made one grave mistake: they had not taken the Democratic party into the draft-making procedure, giving the minority party only token representation, on the legislative committees. And many clauses in the draft were aimed openly at "Boss" Hague's political power. Hague fought ratification at the polls and made it a party issue."

Kerney held less respect for the campaign undertaken by the Democrats and Hague against the constitution:<sup>12</sup>

"The fight was vindictive and the truth was not bandied about lightly in the campaign. And the proponents of improved government lost the first round as the proposed constitution went down the drain in a welter of last-minute lies."

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<sup>10</sup>Keith, op. cit., p. 45.

<sup>11</sup>O'Connor, op. cit., p. 19.

<sup>12</sup>Kerney, op. cit., p. 17.

## C. EVENTS LEADING UP TO THE 1947 CONVENTION

Following the 1944 defeat, Hague went on record in favor of a convention at the end of World War Two. The New York Times reported Hague as saying the Democratic Party should prepare for a constitutional convention after the war, "since it is evident that the people want a change."<sup>13</sup> Democratic State Senator Edward J. O'Mara of Hudson County, announced in February of 1945 that he had prepared for legislative consideration a program of constitutional reform "by delegates in convention." Under his plan the delegates would not be selected until a year after the war's end.<sup>14</sup> (R-3)

During 1945 and 1946 the desire for revision was retained by interests across the state. However, little positive action was taken until 1947. Republican Alfred E. Driscoll became Governor of New Jersey on January 21, 1947. In his inaugural address he urged prompt revision of the 1844 document, saying that "each branch of our government needs strengthening."<sup>15</sup> Governor Driscoll was able to retain the support of Hague for revision by offering Hague's county relief from certain railroad tax laws passed under Governor Edison's administration.<sup>16</sup> (R-3)

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<sup>13</sup>The New York Times, January 2, 1945, p. 21

<sup>14</sup>Ibid., February 6, 1945, p. 34.

<sup>15</sup>Ibid., January 22, 1947, p. 16.

<sup>16</sup>O'Connor, op. cit., p. 19.

In deference to the small counties' representatives in the legislature, Driscoll suggested a public referendum on revision that would not disturb the basis of selecting legislators.<sup>17</sup> The convention was given power to revise all other areas of the constitution. (T-1) When the legislative session opened on January 27, Driscoll had his plan ready for consideration.<sup>18</sup> The plan for a convention was given an endorsement by the State Republican Committee on January 28.<sup>19</sup> Legislative leaders of both parties gave approval to a plan for revision. The first plan introduced called for the election of sixty delegates from state representative districts. This was revised so that each county would select as many delegates as it had legislators in Trenton. The revised plan called for the election of 81 delegates. (A-1) Democrats supported the change, and the legislation passed both houses and was signed by the Governor.<sup>20</sup> The convention was limited to three months duration, and it was to meet on the campus of Rutgers University. Upon passing the legislation Democrats gave a warning that they would oppose the revision of the constitution if the Republicans injected partisan politics into the selection of convention delegates.<sup>21</sup> (R-1, R-2) However, as will be

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<sup>17</sup>The New York Times, January 2, 1945, p. 21.

<sup>18</sup>Ibid., January 24, 1947, p. 4.

<sup>19</sup>Ibid., January 29, 1947, p. 4.

<sup>20</sup>Ibid., February 11, 1947, p. 39 and February 18, p. 3.

<sup>21</sup>Ibid., February 11, 1947, p. 39.



indicated below, partisan politics were for the most part kept out of delegate election.<sup>22</sup> On June 3, 1947, a large majority--the New York Times reported early results of 120,000 to 20,000--of a light election turnout voted in favor of having a convention.<sup>23</sup> The convention then convened on July, 1947, a year of no major state elections (except the assembly races held prior to the convention). (R-5, T-2)

#### D. POLITICAL ATMOSPHERE

The political environment that surrounded the convention of 1947 was somewhat different than that found elsewhere. The Democrats and Republicans had traded off the office of governor several times since the twenties. The term of office was three years with the provision that a governor could not succeed himself. Republicans won the office in 1928, 1934, 1943 and 1946. Democrats won in 1931, 1937 and 1940. These governors, Democratic and Republican, with the exception of Republican Governor Morgan Larsen (1929-1932), were influenced to some degree in their activities by "Boss" Hague of Jersey City.<sup>24</sup> Hague through influencing the executives, who in New Jersey appoint the judges, had secured a court system staffed by his cohorts. Hague's son, unqualified by legal standards, was given a seat on the state's highest

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<sup>22</sup>See infra, p. 208.

<sup>23</sup>The New York Times, June 4, 1947, p. 1.

<sup>24</sup>Dayton David McKean, The Boss (Boston: Houghton Mifflin Company, 1940), Chapter 5.

court. The senate gave consent to this appointment, six Republicans voting with five Democrats to produce the necessary consent.<sup>25</sup>

The legislature throughout the twentieth century has been predominately Republican. One of the major reasons for Republican control has been a legislative representation scheme which de-emphasized population criteria, especially in the senate where each county has equal representation.<sup>26</sup> But Hague, whose machine was oriented toward the Democrats, also exercised his influence here. The conservative wing of the Republican party (the anti-reform wing), in the thirties under the influence of Governor Hoffman, has often acquiesced to Hague's desires.

Hague's power was a vital force in Jersey politics until the fifties when "his" candidates started getting defeated at the polls.<sup>27</sup> Hague's power in both parties has given New Jersey politics a bipartisan flavor. The situation of cooperation between parties moved the New York Times to declare editorially, "If most politics is queer, New Jersey politics is queerer."<sup>28</sup> Therefore the interparty struggles cannot be described as crucial in the same sense as could those in Michigan. Such was the

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<sup>25</sup>Ibid., pp. 78-81.

<sup>26</sup> Federal Writers Project, New Jersey (New York: The Viking Press, American Guide Series, 1939), p. 63.

<sup>27</sup> Charles R. Adrian, Governing Urban America (New York: McGraw-Hill Book Company, 1955), p. 122.

<sup>28</sup> Quoted in Federal Writer's Project, op. cit., p. 53.

political environment of the state at the time of its constitutional convention. (T-3)

#### E. PREPARATION FOR THE CONVENTION

Soon after the legislature passed the enabling act Governor Driscoll appointed a committee on preparatory research, consisting of thirty experts, lawyers, professionals, and state employees. The act had appropriated \$350,000 for carrying on elections on June 3, and for operating the three-month convention. This appropriation did not extend to preparatory research.<sup>29</sup> Under Chairman Sidney Goldmann, Judge of the Superior Court of New Jersey, the committee coordinated research activities which produced thirty-five monographs of twenty to fifty pages each for the use of the delegates. The committee also prepared a draft of rules for the convention procedure and set up a convention library of two thousand volumes.<sup>30</sup> (S-1, S-2, S-3)

#### F. THE SELECTION OF THE DELEGATES

In 1944, a joint session of the New Jersey legislature sat in Trenton as a constitutional convention. The 1947 convention once assembled was quite independent of the legislature. However, the legislature decided several matters relative to choosing delegates. One of the first questions the 1947 legislature decided was when to have the convention

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<sup>29</sup>Kimbrough Owen, "Blazing the Constitutional Trail," National Municipal Review, XXXVII (March, 1948), p. 141.

<sup>30</sup>Steingold, op. cit., pp. 8-10.

and when to hold the elections for seats at the convention. Driscoll suggested May 14, 1947 as the date for the voters to call the convention and also the date for primary elections for delegate candidates. May 14 was also a date for local elections. It was felt that if a special election had to be called it would cost the state from \$750,000 to \$1,000,000.<sup>31</sup> However, as mentioned, the date of June 3, the state primary election day, was chosen for elections. Having the convention elections on that date cost the state \$125,000. June 3 was the only election date. The voters then decided to hold a convention. They also chose delegates. There were no primaries. (A-3) The convention started five weeks after the elections.<sup>32</sup> (A-7)

Nomination was by petition. Petitions had to be signed and filed by April 14. The signer of a petition usually is forbidden to vote in the primary of his party if the petition he signs is for a candidate of the other party. Such was not the case with the convention election. No petition signers would be ineligible to vote in the state primary election because they signed delegate petitions. This provision of the convention election law facilitated a program of bipartisan elections. The delegates were given ten dollars a day for expenses; they were also given free transportation passes; these were their only tangible items of compensation

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<sup>31</sup>The New York Times, January 24, 1947, p. 4.

<sup>32</sup>George, op. cit., pp. 1764-1765.

for their work at the convention.<sup>33</sup> (A-6)

A nominee for the office of delegate had only to be a qualified voter in the county he desired to represent at the convention.<sup>34</sup> (A-5)

Another problem the legislature had to decide involved the number of delegates that were to sit at the convention. The first legislation introduced provided for sixty delegates to be elected from assembly districts.<sup>35</sup> However, the small counties opposed this provision. They were able to have it amended so that eighty-one delegates would be elected. (A-1) These were elected on a county-wide basis. Each county had as many delegates as it had legislators in Trenton.<sup>36</sup> There were no at-large delegates. (A-2) Arthur Vanderbilt, Essex County party leader for the Republicans, was highly opposed to this change. At this stage, he became opposed to the forces that were leading the way for a convention.<sup>37</sup> The eighty-one seat proviso was based on an apportionment that favored the rural areas of the state. The rural areas thus "had their cake and ate it to", the convention being forbidden to reapportion the legislative seats. The delegates were to be selected on a

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<sup>33</sup>State of New Jersey, Laws of 1947, Chapter 8, Sections 6-12.

<sup>34</sup>Ibid., Chapter 8, Section 4.

<sup>35</sup>The New York Times, February 4, 1947, p. 19.

<sup>36</sup>Ibid., February 11, 1947, p. 39.

<sup>37</sup>Ibid., June 1, 1947, p. 40.

partisan ballot; the Democrats therefore had some cause for worry. Vacancies would be filled by delegates selected by the remaining delegates of the county of the retiree.<sup>38</sup> (A-4)

The New Jersey legislature gave the political parties a vital hand in the election. The law mentioned:

"Consent to the use of the designation, name, derivative or any part thereof of any political party by any candidate, whether or not a member of that party, may be given and evidenced by a certified copy of a duly adopted resolution of the county committee of the political party in the county for which the nomination is made, and no such consent may be given to a greater number of candidates than are to be elected. Such consent may be given to any candidate or group of candidates by more than one political party, but nothing herein shall authorize or require the name of any candidate to appear on the official ballot more than once."<sup>39</sup>

This provision assured the party organization that the only candidates using its label would be the type of candidate that it wanted. However, from the start, Driscoll urged the parties of each county to come together and propose bipartisan slates of candidates.<sup>40</sup> When the Democratic legislators voted for the convention enabling act, they did so with a warning that they would oppose the revision of the constitution if the Republicans injected partisan politics into the election of delegates.<sup>41</sup>

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<sup>38</sup>State of New Jersey, Laws of 1947, Chapter 8, Section 22.

<sup>39</sup>Ibid., Chapter 8, Section 8.

<sup>40</sup>The New York Times, February 4, 1947, p. 19.

<sup>41</sup>Ibid., February 11, 1947, p. 39.

All but two of Jersey's twenty-one counties were controlled at the time by Republicans. As early as February, Republican support was given to the governor's bipartisan views.<sup>42</sup> "Boss" Hague acquiesced in the pleas for bipartisanship--what did he have to lose? The two Democratic counties had bipartisan slates. For the most part bipartisan and non-partisan slates were offered to the voters. The parties in each county were able to get together and make up slates without fearing that they would be voted down. The fears did not exist because the parties gave endorsements (let individuals use the party label) only to individuals on the slate. Sixteen of twenty-one counties had such slates.<sup>43</sup> However, the largest delegation of all, that from Essex County, was composed of only Republicans. This was Arthur Vanderbilt's county. George Becker, chairman of the Essex Republican Committee refused to place any Democrats on the slate.<sup>44</sup> The Democrats therefore were forced to nominate an entire slate to rival the Republicans, and Essex being a solid Republican county, the Democratic slate was beaten. (B-2)

The voters were not afforded a large degree of selection in choosing delegates to the New Jersey convention. In five counties, that chose a total of seventeen of the eighty-one delegates, bipartisan candidates

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<sup>42</sup>Ibid., February 19, 1947, p. 23.

<sup>43</sup>George, op. cit., p. 1765.

<sup>44</sup>The New York Times, March 7, 1947, p. 15.

were unopposed. There were but 101 candidates running for the remaining sixty-four seats.<sup>45</sup> (B-1) Because the voter was given a limited degree of choice, the voting throughout the state was "exceedingly light."<sup>46</sup> (B-3)

#### G. THE DELEGATES

The delegates to the New Jersey convention were generally reluctant to reveal their party affiliations. Only fifteen of the eighty-one delegates listed--or mentioned indirectly--their party affiliation with other biographical information printed in the convention record. This in itself provides at least a scintilla of substance for the notion that the delegates were not party oriented while at the convention. From other sources--namely, various editions of the state legislative manual--I did learn the affiliation of forty-four other delegates; this leaves the affiliation of twenty-two delegates unaccounted for. It is generally assumed that Republicans are more reluctant to assert their party identifications than are Democrats. If such is the case, it can be safely stated that an extraordinary majority of the delegates at the convention were Republicans. My incomplete data shows that thirty-nine delegates were Republicans and eighteen were Democrats. Two asserted an independence of political parties, and twenty-two remain without known party identification. (B-4)

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<sup>45</sup>Ibid., June 1, 1947, p. 40.

<sup>46</sup>Ibid., June 4, 1947, p. 1.



Because the reform of the judicial system was thought to be a major concern of the convention, a number of judges were persuaded not to run as delegates "since they would be a strong pressure group." This was done with great difficulty.<sup>47</sup> Among the delegation there were twelve individuals who were state judges or former state judges. Eight others had at one time held public positions related to the State's court system. As for other delegates who had previously served in positions of public trust, eleven had been members of the State Senate, and sixteen were formerly in the General Assembly. One had been the state treasurer, and another was the Mayor of Jersey City. Many of these delegates had held more than one of the mentioned political positions.<sup>48</sup> A majority of the delegates had never before been a public official.<sup>49</sup>

(C-1)

Occupationally speaking, New Jersey's convention, like the others, was dominated by lawyers. Fifty (62%) of the delegates were lawyers. (C-4) Educators, bankers, engineers, and publishers were the other leading occupational groups at the convention. There were eight (10%) women among the eighty-one delegates. (C-5) The average age of sixty-eight delegates who were not so modest as to hide from posterity

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<sup>47</sup>Kerney, op. cit., p. 17.

<sup>48</sup>See Delegate Biographies in New Jersey Proceedings, II, pp. 947-982.

<sup>49</sup>Schlosser, op. cit., p. 23.

their birthdates was fifty-two years.<sup>50</sup> (C-3)

No delegate sought statewide elective office in 1947 or 1948. In the legislative elections of those two years, only ten (12%) delegates were candidates.<sup>51</sup> (C-2)

#### H. RECAPITULATION

The 1947 New Jersey convention was empowered to rewrite the state's 1844 constitution in all phases except legislative apportionment. There was no intense inter-party activity in the state at the time of the convention. The legislature in the convention enabling act provided for the election calling a convention. The legislature appropriated operating funds, but did not appropriate funds for research. Preparatory research activity was directed by a committee appointed by the governor. A moderate amount of material was produced for the delegates.

The public in a light turnout voted heavy majorities for the convention. The favorable vote climaxed a struggle for constitutional reform which "good government" groups had conducted for many years. Opposition from a big city "boss" had produced disappointments in the past, but in 1947, the "boss" was induced to support the convention. The governor of the state was an active force in supporting the convention. Both parties favored the convention.

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<sup>50</sup>See Delegate Biographies in New Jersey Proceedings, II, pp. 947-982.

<sup>51</sup>State of New Jersey, Legislature Manual (1948, 1949).

Eighty-one delegates representing state legislative districts were elected to the convention. There were no primary elections. The delegates were elected as "teams" from their respective counties. The two parties joined forces in presenting bipartisan slates for voter approval. Most counties elected bipartisan slates. Light voter turnouts characterized the election as there was a small field of candidates. Party activities beyond the endorsement of bipartisan delegates was minimal. Delegates were empowered to fill vacancies arising among their numbers. There were no restrictions upon officeholders desiring to become delegates. Twenty-five per cent of the 81 had at one time held state or national office. However, only 12% sought such office in the 1947 or 1948 elections. The average age of the delegates was 52 years, 62% were lawyers, and 10% (the highest proportion among the conventions) were women. The Republicans secured a 2-1 convention majority. The delegates received no compensation for their work other than an expense allowance.

## V. TENNESSEE

### A. METHODS OF REVISING THE TENNESSEE CONSTITUTION

In 1953, the Tennessee Constitution of 1870 was the only constitution in the United States that had no amendments. It was also the oldest unamended constitution of any sovereign entity in the world. The Limited Constitutional Convention which convened on April 21, 1953,

changed this. The convention represented the success of a long struggle for constitutional reform.

The 1870 constitution of Tennessee, the third constitution in the state's history, contained provisions for amending that were almost impossible to put into effect. Amendments could be proposed only once every six years. Two consecutive legislatures had to propose the amendment. The first legislature made the proposal by a favorable vote of a majority of the members elected. The next session had to give the amendment a two-thirds majority before it was placed on the ballot for ratification. Then, a majority of the voters voting for representatives to the legislature had to favor the amendment, and it would become part of the constitution.<sup>1</sup> From 1870 to 1953 only five amendments were able to get to the stage of being on the ballot for ratification. All five failed to get the required extraordinary majority needed for ratification.<sup>2</sup>

The Tennessee constitution, however, included a rather liberal provision regarding the calling of a constitutional convention. The legislature could propose the question of holding a convention merely by agreement of a majority elected to each house. A majority of the voters voting on the question may then call a convention.<sup>3</sup> Nine times since

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<sup>1</sup>State of Tennessee, Constitution (1870), Article XI, Section 3.

<sup>2</sup>Trewhitt, op. cit., p. 120.

<sup>3</sup>State of Tennessee, Constitution (1870), Article XI, Section 3.

1870 and prior to 1953 the people of Tennessee voted on whether or not to call a convention. Nine times they refused to call a convention. In seven of those cases the convention would have had the power to revise the entire constitution.<sup>4</sup>

The faults of the 1870 document were not such that the constitution needed complete rewriting.<sup>5</sup> Cecil Sims, of the Nashville Bar Association and later a delegate to the 1953 convention, remarked in 1949 that the questions of holding a convention were defeated in most cases because there were to be no restrictions on the convention, and the people were afraid to let a convention survey the entire document.<sup>6</sup> Several other factors contributed to the defeats. The voters generally lacked information and were not interested in the balloting. Their attention was given to other matters in which personalities rather than subjective issues were involved. In one instance the voters were too concerned with World War One to be interested in the Tennessee Constitution. Also, the 1870 document made no explicit mention of whether the work of a convention would be submitted to the public for ratification. This aroused fears that a convention might go "hog wild"; people therefore voted against conventions.<sup>7</sup>

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<sup>4</sup>Trewhitt, loc. cit.

<sup>5</sup>See Charles McD. Puckette, "Tennessee Looks for a Sisyphus," New York Times Magazine (February 27, 1949), p. 16.

<sup>6</sup>Cecil Sims, "Limited Con Con in Tennessee," Tennessee Law Review, XXI (December, 1949), p. 6.

<sup>7</sup>Trewhitt, loc. cit.

## B. THE EARLY CAMPAIGN FOR A CONVENTION

Although the document may not have needed total redrafting, the constitutional needs of Tennessee do not remain static. Some changes become necessary. The "poll taxes" offered a starting point. In 1943, the League of Women Voters of Tennessee sponsored a series of discussions in Chattanooga on poll taxes. This series of discussions has been described as the "germ of the campaign that was to achieve final success in 1953." Following the discussions, the state League approved of constitutional revision as a statewide project in 1944,"and the publicity campaign that followed began to draw a responsive following."<sup>8</sup>

The popular demand led to the appointment by Governor Jim McCord of a seven member constitutional revision commission in 1945. The authority for the governor's action was given in a joint resolution passed by the legislature. The seven members represented all areas of the state. General William L. Frierson of Chattanooga was the chairman. One of the seven members was a Republican. The others were Democrats.<sup>9</sup> (S-1, S-2)

After coming together, the commission arranged with the Bureau of Public Administration at the University of Tennessee to have furnished

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<sup>8</sup>Idem.

<sup>9</sup>Sims, op. cit., p. 3.

pertinent information on constitutional provisions in other states.<sup>10</sup> Political Scientists, economists, and legal students throughout the state helped to gather the information. Two volumes containing eighteen essays were printed in 1947. Five of the essays were written by two political scientists who served the convention also as delegates. These essays were the crux of the preparatory research work done for the 1953 convention.<sup>11</sup> (S-3)

The commission made its recommendation in 1946. It advised the 1947 legislature to submit to the people the question of holding a limited convention whose power was restricted to making amendments in nine different areas. One of the areas was taxation.<sup>12</sup> The commission reported that "our first conclusion is that a general revision or a new constitution is not needed, would be unwise, and, in all probability, would be rejected at the polls." The commission also stated that the question on the holding of an unlimited convention would, in all probability, be defeated at the polls.<sup>13</sup> The recommendations were reported

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<sup>10</sup>Lee Greene, "Forward," to Papers on Constitutional Revision, University of Tennessee Record (Knoxville: Bureau of Public Administration, University of Tennessee, XXIII, April, 1947).

<sup>11</sup>Steingold, op. cit., p. 12.

<sup>12</sup>Walter F. Dodd, "State Constitutional Conventions and State Legislative Power," Vanderbilt Law Review, II (December, 1948), p. 27.

<sup>13</sup>See Ibid., p. 28.

to the General Assembly in 1947. The Assembly took no action.<sup>14</sup>

### C. POLITICAL ATMOSPHERE

The political environment in which the campaigns for revision took place differed from that in any other of the convention states. Tennessee is a southern state; it was a slave state prior to the Civil War; it stood with the South during the Civil War. Tennessee is a one-party state in that Democratic candidates seldom lose state-wide races.<sup>15</sup> Partisan loyalties are so persistent, writes V. O. Key in 1948, that no drastic party realignment in the near future is in sight.<sup>16</sup> Although the state did swing to Eisenhower in the presidential races of the fifties, it can be safely assumed that the advent of a constitutional convention caused little concern among Democrats that their party would lose power in the state. (T-3)

Tennessee also has a Republican Party which in eastern areas of the state is a majority party. Key writes:

"Tennessee in a sense has not one one-party system but rather two one-party systems. In East Tennessee Republicans win local elections and customarily two

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<sup>14</sup>Henry N. Williams, "The Calling of a Limited Constitutional Convention," Tennessee Law Review, XXI (April, 1950), p. 250.

<sup>15</sup>V. O. Key, Southern Politics in State and Nation (New York: Alfred A. Knopf, 1949), p. 75.

<sup>16</sup>Ibid., p. 76.



congressional seats. In Middle and West Tennessee the Democrats rule. Within their respective strongholds neither is seriously challenged by the other."<sup>17</sup>

Tennessee then is a state where political unity is extremely hard to achieve.<sup>18</sup> Because of the existence during the forties of a Political "Boss" in Tennessee, a situation much like that in New Jersey, unity was much needed if constitutional revision was to be a reality. E. H. Crump was the political "strongarm" of Shelby County in which Memphis, largest city in the state, is located. Crump began his "reign" in politics in 1909. He was then elected as a "reform" mayor. However, in 1916, he was "ousted" from his office by court order for failing to enforce state prohibition laws. Not until 1927 was he able to regain personal control of Memphis politics. Starting in 1927, E. H. Crump was the undaunted boss of a strong local machine.<sup>19</sup> "His" municipal candidates were seldom opposed. "His" statewide candidates were seldom defeated, because Crump was almost always able to deliver extraordinary majorities from populous Shelby County.

Crump's power had to be bucked if there was to be constitutional reform. Charles McD. Puckette, General Manager of the Chattanooga Times, writes:

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<sup>17</sup>Ibid., p. 75.

<sup>18</sup>Puckette, op. cit., p. 16.

<sup>19</sup>Gerald M. Capers, "MEMPHIS: Satrapy of a Benevolent Despot," in Robert S. Allen (ed.), Our Fair City (New York: Vanguard Press, 1947), pp. 218-222.

"While Crump was in power there was no changing it (the constitution), for he, like most bosses, was allergic to alterations in a governmental structure in which he had lived comfortably and prospered."<sup>20</sup>

In 1946 Crump was given the opportunity to appoint one of the members of the revision commission. He picked General Will Gerber of Shelby County. While the commission as a whole decided that nine areas of the constitution needed revision, Gerber felt otherwise. He indicated that it would be unwise for the convention to consider five of the nine items; these five areas were considered the five most important by independent observers.<sup>21</sup> Crump has been given a share of the credit for the legislative inaction during the 1947 session. Charles McD.

Puckette writes:

"The Crump faction...after an excellent report had been made by Mr. Frierson and his commission, practiced that kind of political euthanasia on its works which bosses accomplish so shrewdly. There was no open clash but the Shelby County delegation did its work in this matter as it had in so many other instances of attempted reform, and the patient died."<sup>22</sup>

#### D. LATER CAMPAIGN FOR A CONVENTION

Strong political forces were needed to oppose the Crump faction of the Democratic Party if constitutional reform was to become a reality.

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<sup>20</sup>Puckette, loc. cit.

<sup>21</sup>Ibid., p. 47.

<sup>22</sup>Ibid., p. 16.

These strong "reform" forces made their presence known in Democratic and Republican primaries of August 5, 1948. Waging an active campaign in the face of personal attacks by Crump, Estes Kefauver and Gordon Browning won the nomination for U. S. Senator and Governor. They were subsequently elected.<sup>23</sup> The reform elections also affected the Republican Party in the eastern part of the state. A young college instructor in political science, Mary Shadow, was able to turn out of office an entrenched Republican legislator of years standing, in a campaign based on the need for a new constitution.<sup>24</sup> (R-3)

When in 1949 Governor Browning put the question of constitutional revision in front of the legislature again, he was supported by the League of Women Voters and organized labor. This time the legislature responded favorably. The question of holding a convention that would be restricted to the questions set forth by the revision commission would be submitted to the voters, November 8, 1949, under provisions of Chapter 49, Public Acts of 1949.

The Attorney General of Tennessee, Roy H. Beeler, challenged the act. He maintained that the legislature could not restrict the powers of a convention. He filed suit against the Secretary of State, in an attempt to keep the question off the November ballot. The suit reached

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<sup>23</sup>Richard Wallace, "Defeat Comes to Boss Crump," National Municipal Review, XXXVII (September, 1948), pp. 416-420.

<sup>24</sup>Puckette, op. cit., p. 47.

the state supreme court.<sup>25</sup> The court followed precedents set by Virginia litigation in 1944, when it announced its decision against the attorney general. Henry N. Williams, Political Scientist at Vanderbilt University, explains the reasoning of the court:

"The Court initially construed the act relative to the proposed convention as simply submitting to the people 'the question of whether or not they wish to have a convention possessing the limited powers which are defined in the act.' Thereupon the Court said, 'The power of the legal voters to approve such convention exists unless forbidden by the Constitution itself. Our Constitutional provision... contains no prohibition against submitting limited questions to the people.' Ergo, the statute is valid. This reasoning is clear, understandable, and consistent with recognized principles of constitutional construction. The Court's opinion further stated, 'in the event of a majority of the electors vote in favor of the convention, the powers of the convention to consider, adopt or propose revisions or amendments to the Constitution will be legally restricted or limited, as defined in the Act, and the informatory statement printed on the ballot to be used in the proposed referendum election.'"<sup>26</sup>

Following the successful ouster of Crump from state politics, and the favorable court opinion, it appeared that revision was right at hand.

Puckette wrote:

"Even with the fate of forecasters in 1948 in mind, it seems prudent to say that Tennessee is on the march toward an amended Constitution and may arrive not later than 1951. (The date of completion of revision if favorable 1949 vote cast.)"<sup>27</sup>

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<sup>25</sup>Cummings v. Beeler, 189 Tenn. 151 (1949).

<sup>26</sup>Williams, op. cit., pp. 255-256.

<sup>27</sup>Puckette, loc. cit.

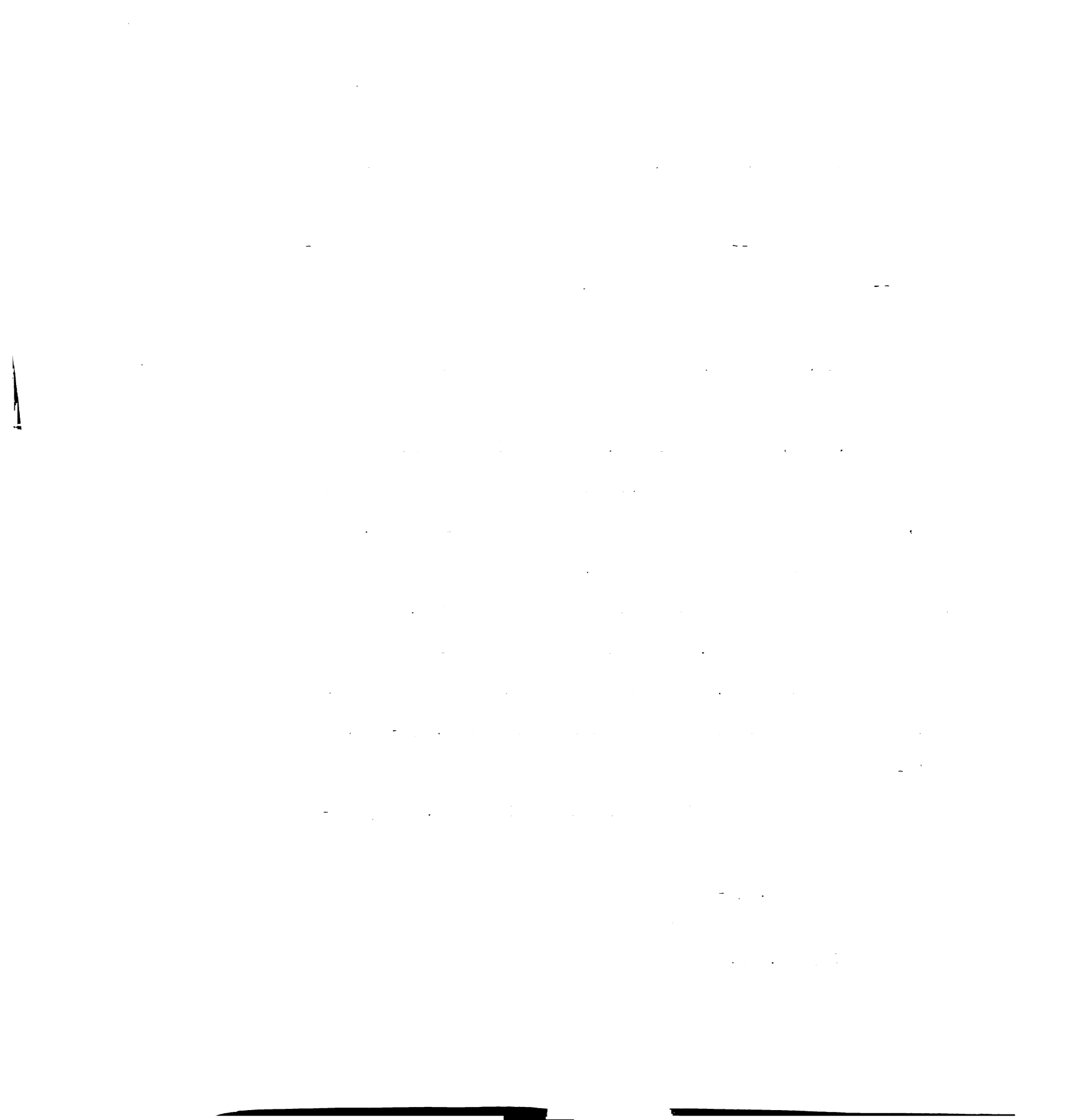
Puckette, and other optimistic supporters of revision, were wrong. On November 5, 1949, the voters rejected a convention by the narrow margin of 64,417 to 62,483 votes. Trewhitt mentions that "one of the reasons for the defeat seemed to be a widespread fear that any revision of a section on taxation--one of those listed for consideration by the convention--might lead to a state income tax."<sup>28</sup>

The advocates of reform in Tennessee were, like those in Michigan and New Jersey, persistent. They persuaded the 1951 General Assembly to submit the question of holding a limited convention to the voters at the August 7, 1952, primary elections. Chapter 130 of Public Acts 1951 also provided for a November selection of delegates and an April, 1953, beginning of the convention if the August vote was favorable. The Act provided for convention expenditures. Only six major areas of the constitution could be investigated by the proposed convention. Taxation was left off the list of items. Hence, the leading cause of objection to a convention was removed. This time the voters responded favorably, casting 196,376 votes for the convention, 106,583 against. (R-1, 2, 4, 5) (T-1)

The legislature passed HJR 14 during its 1953 session. The resolution provided a measure of help for the convention in meeting its administrative duties. (S-2)

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<sup>28</sup> Trewhitt, loc. cit.



## E. ELECTION OF THE DELEGATES

On September 2, 1952, pursuant to the provisions of Chapter 130 of the Public Acts of 1951, Governor Gordon Browning called a special election to choose delegates. The election was held on November 4, 1952; on the same day, Tennessee electors cast ballots for a president, a governor, a United States Senator, nine congressmen, and many other government officials. These elections were held more than five months previous to the start of the convention. (A-7) Although the votes for delegates were cast on special ballots, Tennesseans appeared to be interested in the election. About 893,000 voters cast presidential choices, and 867,000 cast a choice in the gubernatorial race. Approximately 882,000 voted for the delegates. (B-3) Six multiple-delegate districts obscure the accuracy of this figure. To obtain the number of voters, I divided the total vote in those multiple-delegate districts by the number of delegates chosen in the district. There was no primary. (A-3) Ninety-nine delegates were chosen. (A-1) Each of them represented a State House of Representative district; none were elected at-large. (A-2) Twenty-six of the ninety-nine elected were unopposed in the elections. Fifty-one of the ninety-nine chosen for the House at the same time were unopposed. This tends to indicate that individuals desiring public office desired the role of delegate more than that of legislator. The fact also means, of course, that competition is greater in elections where no incumbent is running, as there is a better chance for a person out of office

to be elected. Discounting the delegates that were unopposed, there were 234 individuals competing for seventy-six places at the convention.<sup>29</sup> (B-1)

Any citizen qualified to sit in the State House of Representatives was eligible to become a delegate. (A-5) Nominees were placed on the November ballot through petitioning.<sup>30</sup> Of the ninety-nine selected, sixty-eight were Democrats and twenty-eight were Republicans. Three indicated no party preferences in their biographies in the convention journals.<sup>31</sup> (B-4) Party labels were not present on the delegate ballots, and party activity was not devoted to electing delegates.<sup>32</sup> (A-8, B-2) Any convention vacancies would be filled by a vote of all the remaining delegates.<sup>33</sup> (A-4) The delegates were each given ten dollars a day plus five dollars for expenses in compensation for their work.<sup>34</sup> (A-6)

#### F. THE DELEGATES

Sixty-six (67%) of the delegates listed the legal profession as one of their prime occupations. (C-4) (Some listed more than one occupation.)

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<sup>29</sup>State of Tennessee, Bluebook (1954).

<sup>30</sup>State of Tennessee, Public Acts (1951), Chapter 130, Section 4.

<sup>31</sup>See Delegate Biographies in Tennessee Journal, pp. 1171-1206.

<sup>32</sup>State of Tennessee, Public Acts (1951), Chapter 130, Sections 3, 4.

<sup>33</sup>Ibid., Section 5.

<sup>34</sup>Idem.



Nineteen were businessmen, fourteen were farmers, seven were educators, and one was a labor representative. Four women were delegates, and the average age of the delegates was fifty years.<sup>35</sup> (C-3, C-5)

The members of the convention were generally politically experienced. However, twenty-nine had never held any political office before. Of those who had held office previous to the convention, fourteen held appointive offices and several others held local offices only. There were three former governors, a former lieutenant governor, and at least thirty-one former legislators at the convention.<sup>36</sup> (C-1)

In April of 1953 the delegates met in the legislative chamber of the state capitol in Nashville. Subsequent to the ending of the convention in July, 1953, there were no state political contests during the remainder of the year. (T-2) The next general election for state offices, executive and legislative, came in November, 1954. This was at a time far enough removed from the convention that it did not have an effect on the proceedings of the convention. It is significant to note that not one delegate ran either in the Democratic primary of August, 1954, or in the November general election for a statewide election. It can also be noted that only thirteen delegates sought legislative seats in those elections. Four Democratic delegates ran for Senate posts; two of these previously served in the legislature. Eight Democrats and one Republican

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<sup>35</sup>See Delegate Biographies in Tennessee Journal, pp. 1171-1206

<sup>36</sup>Idem.

sought election to the House of Representatives; three of these had served before in the House.<sup>37</sup> (C-2)

#### G. RECAPITULATION

The 1953 Tennessee convention was limited to amending six areas of the constitution. The convention process was utilized, because the amendment process was very difficult to complete. The voters in August, 1962, cast a 2-1 majority calling for the convention. The vote was the climax of a decade-long campaign by "good government" groups. Success followed several set-backs. Political leaders generally favored the convention. The legislature submitted the question of calling a convention to the voters, and the Governor supported the favorable vote. The convention was a phase of general reform activities. The political demise of a big city "boss" facilitated the call of the convention.

1953 was not an election year. There was not a high degree of competition between the two major parties, as Tennessee was generally a one-party dominant state. A constitutional revision commission appointed in 1945, arranged for the only preparatory research work conducted for the convention. The work, completed in 1947, was inferior in quantity to that completed for the other conventions. The legislature in passing the convention enabling act provided for payment of the convention's operational expenses.

The 99 delegates, each representing legislative districts, were

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<sup>37</sup>State of Tennessee, Bluebook (1954, 1955).

selected at the general election of 1952. The convention convened six months later. There were no primary elections; delegates appeared on the ballot by the petition process. A large field of candidates appeared on the ballot without party labels. There was a large voter turnout--larger than the gubernatorial election turnout. Party activity in the election was not pronounced. Delegate vacancies were filled by appointments made by the remaining delegates. There were no restrictions upon office holders desiring to become delegates. Thirty-five per cent of the delegates at one time held elective state or national office. However, only 13% of the delegates sought state office in the 1954 elections. Sixty-seven per cent were lawyers, and four per cent were women. The delegates' average age was 50 years. The Democrats held over a 2-1 majority.

## CHAPTER FIVE

### CONCLUSIONS AND ANALYSIS

#### I. CONCLUSIONS DERIVED FROM TESTING COROLLARIES

R. The events encompassing the creation of a convention which tend to indicate that party interests will not be threatened by the convention, hence party values will not enjoy prominence at the convention, are:

- R-1. The question of calling the convention was submitted to the electorate by legislative action.

Conventions in New Jersey and Tennessee, both non-party oriented, were created by elections called by legislative enabling acts. The other conventions were not called as a result of legislative action. Michigan's convention resulted from a constitutional amendment and initiative process. The hypothesis that party values will not enjoy prominence at conventions whose creation was aided by legislative action is accepted.

- R-2. The question of calling the convention did not appear on the ballot automatically due to a constitutional mechanism established years in advance of the calling.

In New York and Missouri, conventions were called as a result of the convention question appearing on the ballot automatically at long periodical intervals. This ballot mechanism is present in Michigan but was not utilized in establishing the Michigan convention. The data indicates that the automatic appearance of the question definitely occasioned partisan control of the convention in New York. The Missouri convention illustrated that the variable is not a controlling one. Michigan demonstrates that partisanship can arise when the public initiates the call of the convention. The validity of the hypothesis cannot be adequately demonstrated by the data. Judgment must be reserved.

- R-3. The major political parties supported the calling of a convention.

Party organizations genuinely supported New Jersey and Tennessee conventions. Party support for the Missouri convention was lacking, as it was in Michigan and New York. Such being the case, the data does support the hypothesis that support of the convention by political parties indicates that the interest of the parties will not be threatened by the convention, hence party values will not be prominent at the convention.

- R-4. Good government groups supported and campaigned vigorously for the convention.

Good government interest groups were most actively in support of conventions in Tennessee, Michigan, and New Jersey. The groups experienced many set backs in their struggles to secure the creation of constitutional conventions. In Missouri the groups campaigned vigorously for a convention. There was an almost complete lack of activity by this type of group in New York. The New York situation indicates that when this type of interest group is not concerned with a convention at its inception, the values of the groups will be absent from the convention. The variable of this hypothesis may well explain why the Michigan convention demonstrated a reliance upon non-party oriented values in its early and organizational stages. The hypothesis is accepted.

- R-5. The public responded favorably to having a convention by voting in large numbers and casting a large majority for the convention.

The largest majority proportionally for a convention was found in the elections creating conventions for Tennessee and New Jersey. A substantial majority was also present in Missouri. In New York and Michigan the results were much closer. Data on turnouts is incomplete and also clouded with the fact that the voting in some states accompanied voting on major statewide election races. No conclusion can be reached on turnouts. However a partial acceptance of the thesis is warranted by the data on majorities.

- S. Preparations for the convention will illustrate a greater likelihood that

party values are not going to enjoy prominence at the convention if:

- S-1. The Governor of the convention state demonstrated, by official actions, a favorable disposition towards the convention.

The governors in Michigan, New York and New Jersey, demonstrated favorable disposition towards their states' conventions by appointing quasi-official convention preparatory commissions. The Missouri governor also appointed such a group, but he later vetoed legislation which would have financed the work of the group. The Tennessee executive took no official action in regards to the convention once the convention was called. A previous Tennessee governor had taken the initiative in providing for preparatory research for the convention. The data concerning executive actions is such that the hypothesis that gubernatorial action will precede conventions where there are less threats to party interests cannot be accepted.

- S-2. The Legislature supported the convention with legislation which went beyond merely financing the operation of the convention.

Legislative action in Tennessee and New York and Missouri was designed to aid the conventions in ways other than financing convention operations. New Jersey's legislature took no action after passing the convention enabling act. The Michigan legislature actively opposed almost all attempts to give aid to their convention. The New York legislative action resulted from an obligation created by the Governor. The legislature had refused to establish and finance the work of a preparatory commission. The Governor then appointed a commission which unofficially initiated research activities and in the process incurred a financial debt, for which the legislature then appropriated funds. This negative legislative approach, accompanied with the negative actions taken by the Michigan legislature offers credence to the proposition that the absence of legislative aid illustrates that the convention will represent a threat to party interests, hence party values will gain prominence in the convention. However, the data presented is not so free from other uncontrolled factors, that the hypothesis can now be accepted. Judgment must be reserved.

- S-3. Research activity was conducted especially for the benefit of the delegates; and, the activity resulted in the drafting of a

substantial body of non-partisan literature.

Preparatory research activity was conducted especially for the delegates of all conventions except the Tennessee convention. In Tennessee, a body of constitutional research had been gathered by a commission which met over five years previous to the convention. The most substantial bodies of expertise--non-partisan--research literature were developed for preparatory commissions in Michigan and New York. Other private groups also contributed to the body of literature for the Michigan convention. Lesser amounts of literature were in evidence for the conventions in New Jersey and Missouri. Only meager resources were available for the Tennessee convention. The data is contrary to expectations set forth in the hypothesis, as the New York and Michigan conventions were the most party oriented conventions. The hypothesis is either to be clearly rejected or relegated to a position of very little importance in determining the course of partisanship at conventions.

T. The chances that party interests will become threatened are accentuated by:

T-1. There being no legal limit upon the substantive scope of the convention's work.

The Tennessee Constitutional Convention was limited to revising six sections of the state constitution. None of the six could be regarded as being of major importance to the interests of the parties. In New Jersey the enabling act prohibited the convention from revising the state's legislative apportionment scheme. Legislative apportionment is very much attached to party interests in most states. In Michigan, Missouri, and New York conventions were empowered to revise the entire state constitution. Missouri represents the only indication that the hypothesis is not completely valid. New Jersey and Tennessee conventions did not demonstrate threats to party interests. Michigan and New York conventions did give prominence to party values in their deliberations. The hypothesis is accepted. The non-compliance of data from Missouri is evidence only that the variable cannot be of itself a determinant of convention action vis-a-vis partisanship.

T-2. The conducting of the convention, in the main, during a year of major statewide elections.

New Jersey and Tennessee conventions were not conducted during election years. The New York convention was conducted wholly during an election year, that is a year of major statewide partisan elections. The Michigan convention began during a non-election year but continued into the Summer of the following year, an election year of major state importance. The Missouri convention deliberated for over twelve months. The closing months coincided with months of state election campaigns. Missouri again offers the only evidence that the validity of the hypothesis is doubtful. However, Missouri can probably be explained so as not to discredit the hypothesis. The convention did deliberate for many months outside of the election year atmosphere. By the time election year campaigning began, the non-party value orientation of the delegation had been determined and institutionalized. A convention ending amidst campaigning could not change the orientation. The fact that the Michigan convention began during a non-election year may help explain why the early stages of that convention were not as devoted to party values as were the latter stages. The hypothesis is accepted.

- T-3. A political atmosphere characterized by intense inter-party rivalries.

Hypothesis T-3 is accepted and put forth as a strong indicator of convention party orientations. Tennessee was a one-party state at the time of its convention. Tennessee's convention gave little prominence to party values. There were recognized majority parties in both New Jersey and Missouri. Missouri's convention was held during years of severe external crisis--war. New Jersey's minority party was led by a political "boss" who was adept at coming to agreements with the majority party without interparty quarreling. In these two conventions party values also lacked prominence. The New York convention was conducted at a time when party strength of the major parties was approaching equality, and during severe internal crisis--economic depression. Michigan parties demonstrated strength approaching equality; political offices were shared between the parties. The parties in Michigan were also--relatively speaking--very far apart ideologically. The Michigan and New York conventions placed a high degree of prominence upon party values. The hypothesis is accepted.

- A. The political party value orientation of the delegation will be more pronounced when the rules of the delegate selection process provide for:



- A-1. A large number of delegates rather than a smaller number of delegates.

Among the conventions studied there is a relationship between size of delegation and the degree of dominance of party values in the convention. The two conventions that were most dominated by party values were New York with 168 delegates and Michigan with 144 delegates. None of the other conventions had as many as 100 delegates. The hypothesis is accepted.

- A-2. Some delegates elected on an at-large basis.

The chapter reveals that only New York and Missouri selected any delegates on an at-large basis. The hypothesis is not confirmed by the data. In New York, the at-large delegates were party and convention leaders, and as individual delegates added to the inter-party fighting at the convention. However, bipartisan Missouri also had at-large delegates, and these individuals did not function so as to bring partisanship into the convention. It should be mentioned, again, that the Missouri at-large delegation was elected on a non-partisan ballot, but the two parties did select the delegates who were elected. Non-party oriented delegations in New Jersey and Tennessee did not have at-large delegates; nor did the party oriented convention in Michigan.

- A-3. The selection of delegates in direct primaries.

A quick glance at the fact that New York and Michigan utilized election primaries to select delegates; whereas, Tennessee, New Jersey and Missouri did not, might lead one to conclude that hypothesis A-3 is verified by the data. However, the selection process of delegates in Missouri and New Jersey would nullify verification of the notion that primary elections lead to a more pronounced party orientation among the delegates. In New Jersey the parties jointly selected bipartisan slates of delegates in most of the state's counties. Only delegates designated by the party could carry the party label into the election. In Missouri, many delegates were selected directly by their party's senatorial district committee. Such a selection would be more conducive to a party orientation among the selected delegates than would a direct primary selection. Missouri and New Jersey were able to escape party values as a prime convention motivation, but it would be tenuous reasoning to conclude that the delegate selection

process in this particular aspect was related to the lack of partisan motivation.

- A-4. The filling of vacant convention seats by public officials outside of the convention rather than by personnel within the convention.

The hypothesis concerning the filling of vacancies is not verified by the data. In Michigan and Missouri delegate vacancies were filled by the Governor. Chapter three leaves no doubt but that the Democratic Governor of Michigan used this rule of the selection process to interject Democratic Party values into the convention. The Missouri rule provided that the governor had to fill the vacancies with appointees belonging to the same party as the disqualified or retired delegate. This provision tempered any instillation of party values upon the delegation. The partisan New York convention, and the non-party value oriented New Jersey and Tennessee conventions required replacements to be made by remaining delegates. There is no consistent relationship between the existence of a particular replacement rule and the dominance of party values in a convention.

- A-5. No limits upon the eligibility of office-holders to become delegates.

Missouri declared almost all public officials to be ineligible for convention seats. Michigan's eligibility requirement eliminated most state public officials from the convention. Michigan did not forbid national or local officials from participating. There were no prohibitive eligibility requirements in New Jersey, Tennessee, or New York. The presence of many public officials in the New York convention probably did have an effect upon the party-orientation of that convention's actions. But, the fact that the rule was the same in New Jersey and Tennessee leads me to reject the hypothesis that the mere lack of a limiting rule can be equated with the party value motivation of a convention.

- A-6. A small delegate compensation as opposed to a larger compensation.

Daily (session-days) of delegates:  
 New Jersey - \$00 plus \$10 expenses  
 Tennessee - \$10 plus expenses  
 Missouri - \$10 plus expenses

New York - \$2500 for 71 session days or \$35 per day  
 Michigan - \$7500 for 137 session days or \$55 per day

The party-value dominated conventions provided higher rates of compensation for their delegates than did New Jersey, Tennessee, or Missouri. The hypothesis is rejected. Higher salaries possibly accrued to delegates in Michigan and New York because these states were more urbanized and industrialized than Tennessee and Missouri. New Jersey's lack of delegate salaries, an oddity, may have been designed as an attracting force for public-spirited individuals.

- A-7. Election of delegates several months prior to the start of the convention, rather than shorter time before the start of the convention.

The hypothesis is rejected. Missouri and Tennessee convention delegations possessed a weak party value dominance; delegates were elected to these conventions over five months prior to their beginning. The start of the New York convention also came more than five months after the delegates were elected. On the other hand, non-party value dominated delegation in New Jersey and a party value dominated delegation in Michigan were each elected only a few weeks before the beginning of the conventions in the states.

- A-8. Election on a partisan ballot rather than election on a ballot which makes no mention of party affiliation.

Because only one delegation, that in Tennessee, was chosen on a non-partisan ballot, I can only suggest that the hypothesis is probably worthy of being accepted. The non-partisan nature of the Tennessee convention indicates that the non-partisan ballot may function for constitutional conventions as "good government" groups would claim.

- B. The process of selecting delegates to the convention will result in a more party value oriented delegation when:

- B-1. Small numbers of candidates seek convention seats.

The number of candidates that sought to be nominated for the office of delegate in the direct primary states and of those that sought election as delegates in states without primaries varied considerably. An average of 4.20 candidates per district per party sought to be nominated in the Michigan primary.

An average of 2.62 sought election for each seat in Tennessee. 2.26 candidates on the average sought each of the at-large seats in Missouri. (Other seats were uncontested as the parties directly selected the delegates in most cases.) In New Jersey an average of 1.40 sought each convention seat. In New York the degree of competition was at its lowest; on the average only 1.05 candidates sought nomination in each district, i. e., for each district nomination available. A relationship between degree of election competition and party-value orientation of delegations exists. The parties practically had a "free-hand" in selecting the New York delegates. Although the levels of competition were low in New Jersey and Missouri, it should be realized that each had definitely more competition than did New York. Tennessee experienced a higher level of competition. I believe the fact that Michigan had such a high level of competition is related to the early orientation of the convention's delegation away from strictly party values. As Chapter One indicated, the Michigan convention did not emphasize party values in its early, organizational meetings. It seems reasonable to explain such an early lack of strong party motivations partially as the result of the high degree of primary election competition. Hypothesis B-1 is accepted.

- B-2. There is a higher degree of party activity in the selection of the delegates, when there is no bipartisan cooperation in the selections.

The New York political parties were very active in the delegate selection process. Hardly any other groups were active. Also, in Michigan during the general election campaigns, the parties were vigorously striving to win a convention majority. One party created an organization just to coordinate its candidate's campaigns. The other party sent its leader, the governor of the state, on a speaking tour in behalf of its candidate. Their activity surpassed party activity in the other four states. There was no party activity in Missouri once candidates were selected, in most cases by district party meetings. The Missouri parties cooperated with one another to produce a bipartisan at-large slate of candidates. New Jersey likewise saw limited party activity in the delegate elections. Many of the Democratic and Republican county parties came together to formulate bipartisan slates of candidates. Party activity in Tennessee was almost nonexistent as party labels did not appear on the ballots. The

variable--party activity in delegate elections--is related to the party-value orientation of the delegations elected. The bipartisan cooperation viewed in the election process of Missouri and New Jersey seemed to carry over into the conventions. Tennessee's delegates did not overtly reflect their party labels, as would be expected to be the case where the labels did not appear on the election ballot. I believe that the party activity in Michigan and New York reflected an awareness that party interests were at stake in the conventions. Support for the candidates by their parties helped instill in them, even if they were opposed by several people in the primaries, an orientation toward party values which allowed them to perceive the opportunities to satisfy party interests in the convention.

B-3. There is a low voter turnout in the delegate elections.

The voter turnouts in the primary and general elections for the Michigan convention were very low. Neither election drew over 20% of the eligible voters. The New York primary also witnessed a very low turnout. The median county found only 10% of its voters casting ballots. However, there was a much higher voter turnout in the New York general election. But by the time of general election, the parties had probably already insured that the delegation would be lacking any non-partisan type members. Low turnouts were also witnessed in New Jersey and Missouri. In both of these states, the fields of candidates were narrow, and the two major parties had joined forces to select bipartisan delegates. With most of the selection process completed, the voters' electing function was considerably narrowed. The low turnouts in these two states did not represent a public acquiescence to party control of the convention. Party values did not in fact dominate the two conventions. In Tennessee, a high turnout supports the hypothesis that non-party oriented delegations are selected by large proportions of the electorate. The data generally reflects validity in the hypothesis. However, since some of the elections, for example both Michigan and New York primaries, were special elections (no other state issues appearing on the ballot) and other elections, New Jersey's and Tennessee's were held in conjunction with other state elections. Acceptance of the hypothesis must be reserved until controlled data can be observed.

B-4. The party division of the delegates is one in which there is

clearly a majority party, but the party's numerical majority is not extraordinary. The party orientation will be less if there is no clear majority, or if the majority is extraordinary.

The data reveals a relationship between party division at the convention and party-value orientations of the delegates. In Tennessee, New Jersey, and Michigan the majority parties held approximately two-to-one majorities over the minority. In Missouri the delegate seats were evenly divided between the two parties with one additional seat going to a delegate selected by both parties (although he was a Democrat). The Missouri balance was insured by provisions of the state's operating constitution. In New York, the Republican party held a majority of only 15 out of a delegation of 168. Especially in the organizing of a convention, and the structuring of a convention's rule, the party division is important. New Jersey, Tennessee and Michigan convention majorities did not need to utilize their numbers in order to get rules which would be beneficial to the securing of their party's interest. These convention's majorities were so large that the rules of operation were not important party matters. Hence, the members of the majority parties were less oriented toward party values at the initial stages of the conventions. Only in Michigan did this lack of a party value orientation among the delegation give way to partisanship. On the other hand, I believe that the narrow majority the Republicans had in New York forced the Republican delegates to become conscious of their tenuous control so that it could be strengthened. The majority's reliance upon this party consciousness, ergo-this party value orientation, aided in strengthening the control. In Missouri, neither party could dominate the convention. The party leaders agreed to comply with the spirit of the state's constitution and provided for a bipartisan convention. Such compliance removed any threats of tipping the balance toward one party. Party values were put aside because the lack of a convention majority meant that party interests would not be satisfied in the convention. The hypothesis is confirmed.

C. The opportunity to satisfy party interests will arise more readily when delegations display the following characteristics which reflect an orientation toward party values:

- C-1. A large proportion of delegates are current and former party and public officeholders.

Hypothesis C-1 is rejected as the data does not reveal that larger proportions of former or current officeholders in the delegations will result in a stronger party value orientation among the delegation. Concerning myself only with delegates who held or had held elective partisan office on a state or national level (judges, legislators, congressmen, elected executives, etc.), I found that in Missouri 45%, New York 38%, Tennessee 35%, New Jersey 25%, and in Michigan 15% of the delegates were public officials. A patterned relationship between this variable and partisanship in the conventions does not exist.

- C-2. Several delegates seeking election to public office at a time subsequent to the end of the convention.

Only 12% of the New Jersey delegation sought a state office in the elections subsequent to the adjournment of the convention, (1947 and 1948 elections). Only 13% of the Tennessee delegates sought state office in the first general election following the end of the convention. In Missouri at most 17 (24%) delegates competed in the 1944 primary elections for nomination to state office. At most 7 (9%) competed in the November general elections. Thirty-two (22%) of Michigan's delegates sought primary nominations. Eighteen (13%) were in competition in the general election. Twenty-two New York delegates stood for election in the general election of 1938. The Michigan and Missouri situations suggest that approximately one-half of the delegate-candidates will be defeated in primaries. I therefore surmise that approximately 40 New York delegates must have sought primary nominations. This number would represent about 25% of the delegation. The data reveals a relationship between the proportion of delegates that are candidates and the degree of party value orientation found in a delegation. Only Missouri does not fit strictly into the pattern; but, data from Missouri is not exact. My hypothesis is tentatively confirmed; I conclude that delegates who become candidates will personalize the interests of their party and will be motivated by the values of their party in the convention.

- C-3. The delegates are young.

Data on the age of delegates is not complete. New York data is only in general terms. For Michigan the average delegate age was 48, for Tennessee 50, for New Jersey 52, and for

Missouri 55 years. A mild relationship exists between average age of delegates and party-orientation of the delegations. However, the relationship demonstrated by the data is not strong enough to confirm the hypothesis. No conclusion as to the validity of the hypothesis can be reached.

C-4. A large proportion of the delegates are lawyers.

The conventions in New York and Tennessee each had exactly two-thirds of their delegate ranks filled by lawyers. The partisan nature of the two delegations differed considerably. The smallest proportion of a delegation that belonged to the legal profession was found in Michigan where 39% of the delegates were lawyers. The Missouri convention had 49% and the New Jersey convention had 62% of their delegation composed of lawyers. The data clearly calls for a rejection of the hypothesis. The partisan motivations of the several delegations was unrelated to the numbers of lawyers in the delegations.

C-5. A small proportion of delegates are women.

The highest proportion of women was found in the non-party value motivated New Jersey convention. Ten per cent of the delegates to the convention were women. However, the hypothesis that a high percentage of women in a delegation will have an effect of reducing the party-value orientation of the delegation cannot be confirmed by the data. The party-oriented delegation in Michigan had 8% women. New York had 4%, whereas the non-party value motivated Tennessee and Missouri conventions had 4% and 2% women respectively. The hypothesized relationship did not exist.

## II. ANALYSIS OF CONCLUSIONS

In this thesis twenty-eight corollaries have been presented in an attempt to substantiate the hypothesis that party values will become prominent in a state constitutional convention as party interests are threatened. The acceptance or partial acceptance of fourteen of the corollaries reflects the general validity of the hypothesis. As only five cases were examined



in this study, high degrees of error would be expected to accompany any rejection of a corollary (type 1 error) or similarly an acceptance of a corollary (type 2 error). The error is magnified by an inability to control the variables investigated. The setting of each variable in each of the five convention states is different to some degree. However, even amidst the theoretical deficiencies in the construction of this study, the factors explaining the role of party values in each of the conventions are brought to light. Why in Michigan's convention were party values very prominent in the later stages of the convention, but not prominent in the early organizational stages? The hypothesis and its corollaries can explain this peculiar play of party values.

The Michigan Convention, like that of New Jersey, Tennessee, and Missouri came into being as a result of a campaign led by non-partisan "good government" interest groups and waged over a period of several years. The question of calling a convention appeared on the ballot not automatically but through public initiative. The partisan New York convention and also the Missouri convention were called by means of a question appearing on the election ballot automatically. The drive for the convention by non-partisan groups had an influence on the beginnings of the Michigan convention. But the creation of the Michigan convention was also characterized by events that sowed the seeds of partisanship into the constitutional revision body. Political parties in Michigan were lacking in their support of the convention from

the start. Such was also the case in New York and Missouri. This reluctance denoted a fear that party interests might be adversely affected by the convention. The fear did not exist in New Jersey or Tennessee. The fears that party interest would be threatened in the Michigan convention set the state for the prominent play of party values in the later convention deliberations. Although a non-partisan spirit had prevailed over the creation of the convention, a small election majority for the convention revealed that fear among many of those casting votes. Large majorities had created the New Jersey, Tennessee and Missouri conventions.

The threats to party interests in the Michigan convention were manifested by the fact that the Michigan convention, like the New York convention, was given unlimited powers of revision, met for a considerable period during an election year, and met in a state political atmosphere of intense interparty rivalries. The three non-party value oriented conventions exhibited traits contrary to these, except for Missouri where unlimited powers were also conferred upon the convention.

The threat to party interests were accentuated by the fact that the delegation in Michigan as well as in New York was relatively large. A large delegation provided greater notoriety for the convention and its leaders than would have been evidenced by a smaller delegation. The large delegation also created the need for organization and for specialization of convention tasks, and party labels came to be a tool

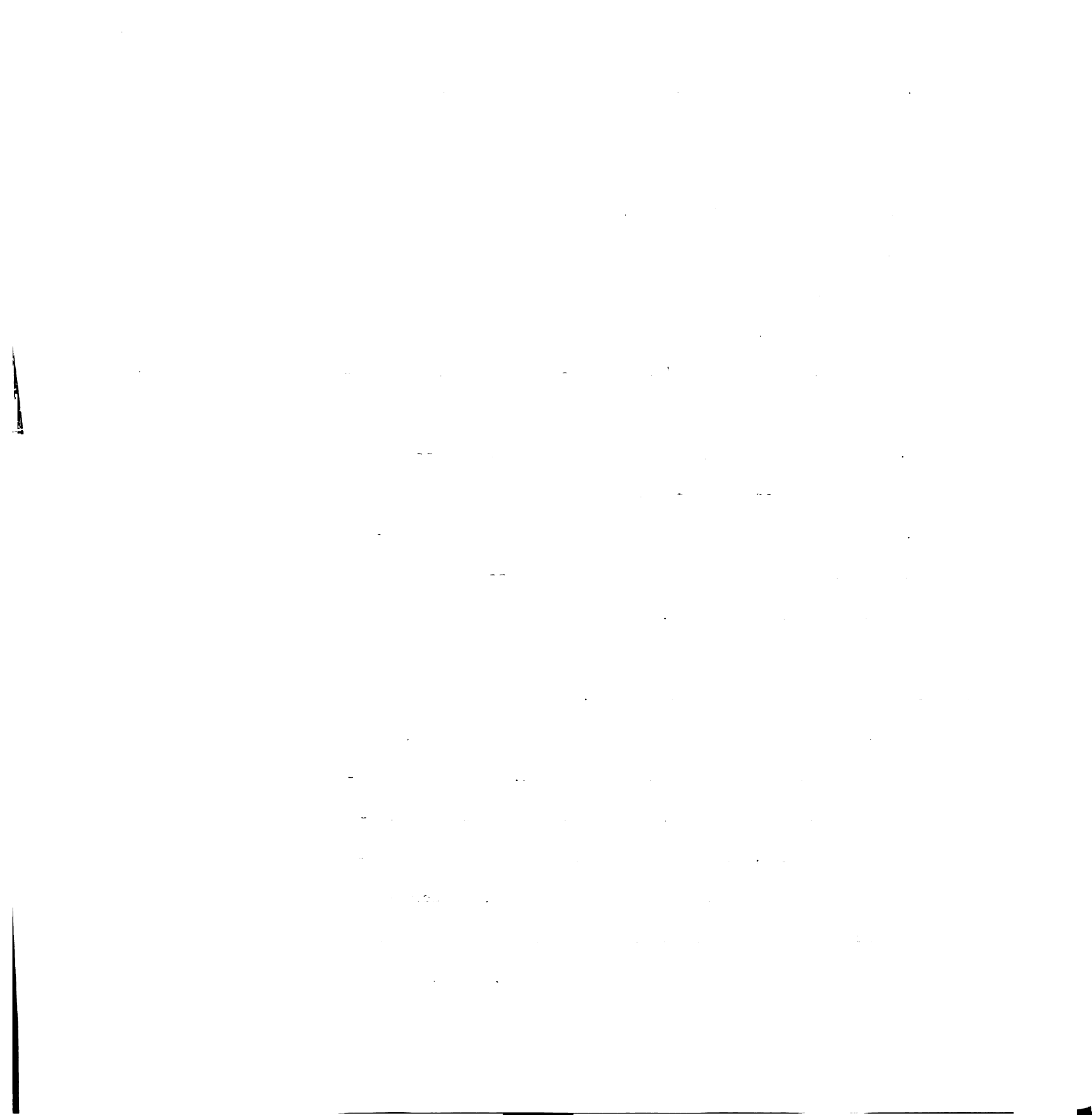
which assisted in that organization. A large number of convention seats represented an opportunity for the parties to have several of its members rewarded. Endeavoring to have its members rewarded, the Michigan parties campaigned harder than parties of other states to have their candidates elected to the convention. New York parties were also actively engaged in efforts to have their candidates selected to sit in the convention. The parties of New Jersey and Missouri did not exert themselves as much, because they were able to arrange for a bipartisan election of delegates. Tennessee parties likewise were not engaged in campaigning for convention seats, as the Tennessee delegates were elected on a non-partisan ballot. The striving to win seats reflects a perception by the party of threats to the party's interest by convention activities. The New Jersey and Missouri parties must not have been able to perceive such threats lest they would not have cooperated in selecting delegates.

The opportunity to satisfy party interests was in evidence in one particular way in the Michigan and New York conventions. The opportunity was in the form of the convention's development of candidates for future political office. A higher proportion of Michigan and New York delegates ran for state or national office in major elections directly subsequent to the convention than in any other state. Missouri also had a relatively high percentage of candidates. The political interest represented by the delegate candidates created threats to both

parties. No such threats existed, at least to such a degree, in New Jersey or in Tennessee; first, because fewer delegates sought office, and second, because the next subsequent major election was more than a year after the close of the convention.

Events following the call of the convention also give a clue to the reason for the lack of prominence enjoyed by party values early in the Michigan convention. The Michigan convention began like all the other conventions, save New York's, in a non-election year. The convention started more than thirteen months before a major partisan election. This being the case, the threats to party interests--ergo, control of public office--were ill-perceived due to their remoteness in time. The convention delegates had early indicated that they expected to adjourn in the early spring of the next year--still many months prior to the state elections.

The selection of delegates to the Michigan convention displays characteristics deemphasizing partisanship. More candidates sought election to the Michigan convention than to any other convention. New York had the fewest candidates per convention seat. With a high number of candidates there was a greater chance for the selection of non-party oriented delegates, delegates who would be apt to perceive convention activities in terms unrelated to party interests. Selection of a number of that type of delegate hindered the early development of a reliance upon party values in the Michigan convention. Also, the



Republican Party in Michigan enjoyed a two-to-one majority at the convention. Majorities of two-to-one were also present in New Jersey and Tennessee. With such an overwhelming numerical control of the convention delegation, a party does not need to construct convention rules and organization in order to serve their interests. Their interests are protected by their majority. Early in the Michigan convention, the Republicans yielded to demands made by convention Democrats--such yieldings were, of course, indicative of a lack of prominence for party values--without experiencing a threat to party interests. In New York, the Republicans had a majority of only 54%. A number of their delegates represented liberal New York City districts, therefore Republican Party control of the early convention was not as secure as in other states. Threats to the interests of the Republican Party were not unforeseen by the delegates. Therefore, the Republicans organized the convention in a manner emphasizing party values, in order to lessen chances that the convention would endanger their interests. Party values became institutionalized in the earliest stages of the New York convention. In the Missouri convention the two parties had even strength. Such equality was a result of constitutional provisions and constitutional history in Missouri. The party equality was institutionalized by constitutional mandates that insured that each party would hold an equal share of convention offices and appointments. If two parties enter a convention with equal strength and that equality

is going to be stable, each party possesses sufficient power to ward-off any threat to its interests. Hence, the threat would not be apt to arise, and the convention would deliberate in an atmosphere which offered very little prominence to party values. Such was the Missouri story. The fact that Missouri demonstrated many of the attributes of a partisan convention--being called on an automatic vote, not being supported by parties, having unlimited powers, and having a relatively large portion of future candidates among the delegation--and yet did not fall victim to partisanship can best be explained by the fact that equality of numbers insured each party that its interests would not be threatened.

## APPENDIX

Questionnaire given the Michigan Convention's 144 delegates. There were seventy-seven respondents, fifty-seven Republicans and twenty Democrats. The percentages below indicate the portion of each party's respondents giving the answer.

1. Party: Republican 57 (100%) - Democrat 20 (100%)
  
2. About how many of your fellow delegates did you know before your campaign for a convention seat?  
Average Republican: 22, Democrat: 13.  
(Answer any way you can, specifically or generally).
  
3. Through what means did you know them?      Republican      Democrat  
Check as many as appropriate:

a. Geographical closeness .....	68%	60%
b. Professional organizations .....	47%	40%
c. Party or business acquaintances ....	70%	70%
d. Party affairs at a local level .....	37%	55%
e. Fraternal organizations .....	14%	15%
f. Other organizations .....	30%	25%
g. Other (specify if you wish).....	26%	15%

  
4. Did you attend any meetings of delegates before the delegates all came to Lansing.

Yes .....	82.5%	90.0%
No .....	17.6%	10.0%

  
5. Did you attend any organized caucus before coming to Lansing?

Yes .....	49%	85%
No .....	51%	15%

  
6. After coming to Lansing what factors most affected your making early contacts (first two weeks or so) with the other delegates?

a. Party Caucuses .....	60%	75%
b. Social affairs .....	44%	45%
c. Your Lansing residence .....	37%	15%
d. Seating arrangements in convention hall	65%	40%
e. Area of the state you represent .....	35%	15%
f. Belief in the same ideas, proposals .	35%	40%
g. Other (specify if you wish).....	11%	15%



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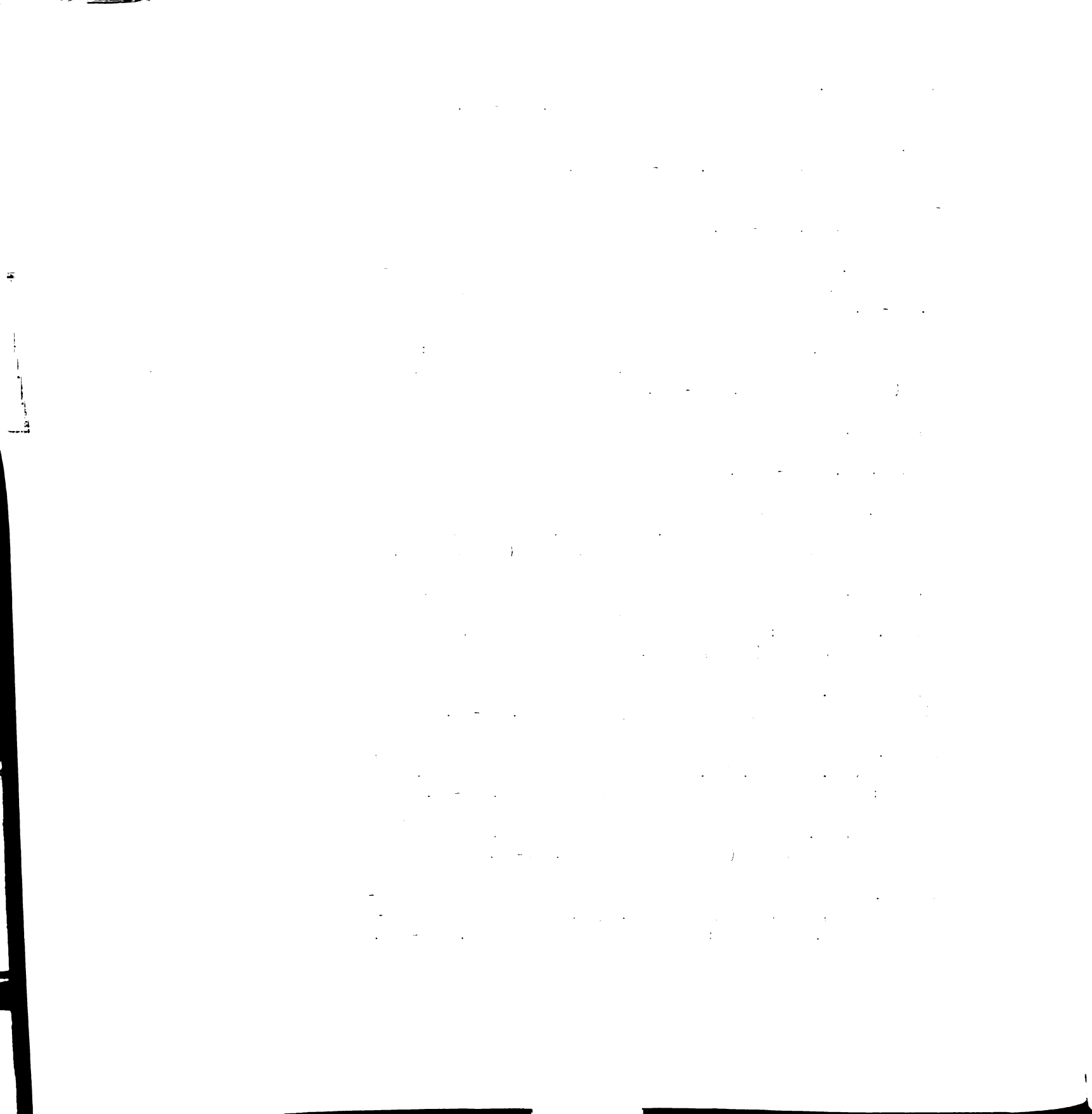
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