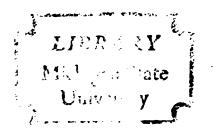
THE CONSTITUTIONAL AND
LEGAL DEVELOPMENT OF THE
STATE BOARD OF EDUCATION AS
THE CENTRAL EDUCATION AGENCY
IN MICHIGAN

Dissertation for the Degree of Ph. D.
MICHIGAN STATE UNIVERSITY
GLENN EARL HECK
1973





This is to certify that the

thesis entitled

THE CONSTITUTIONAL AND LEGAL DEVELOPMENT OF THE STATE BOARD OF EDUCATION AS THE CENTRAL EDUCATION AGENCY IN MICHIGAN

presented by

Glenn E. Heck

has been accepted towards fulfillment of the requirements for

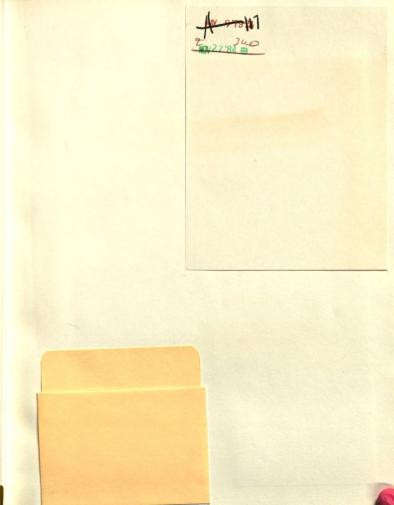
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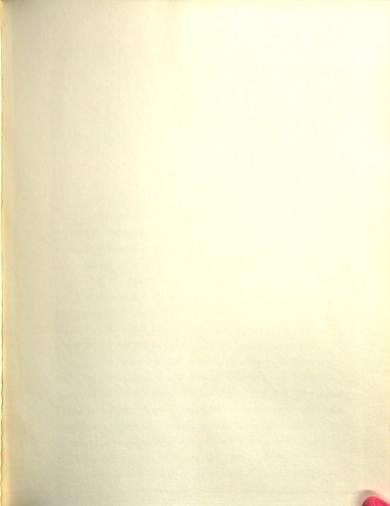
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ABSTRACT

THE CONSTITUTIONAL AND LEGAL DEVINOFMENT OF THE STATE SOARD OF EDUCATION AS THE EPHTRAL EDUCATION AGENCY IN MICHIGAN

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Glenn Earl Heck

The major purpose of this dissertation was to trace the constitutional and legal development of the central duration agencies in Michigan from 1805 Until 1973. The three agencies studied were the University of Michigan, the Uffice of the Superintendent of Public Instruction and the State Board of Education. The central focus was on the development of the powers, organization and functions of the State Board of Education before, during and after the 1951-1962 Constitutional Convention in Michigan.

The major problem considered in the study was whether the State Board of Education had become the constitutional and legal central education agency for all public education in Michigan. The general hypothesis was that the heard had become the central agency except for the constitutional powers and functions reserved for the four-year public colleges and universities. The study has been a historical investigation relying heavily on the Michigan

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Constitutions, statues and public documents and reports for the basic data. The major explanatory theme has viewed the three central education agencies as constitutionally created and enlarged by the Michigan citizens and the legislature as a means of meeting the emerging educational functions that required special agencies of educational governance.

The State Board of Education in Michigan was established by statute in 1849. It was given recognition in the 1850 Michigan constitution and given supervision over the state normal school with other duties to be prescribed by law. Constitutional recognition was important in that the legislature could not abolish the Board by legislative act. By 1903 the State Board had been granted additional powers by law for the general supervision of three additional normal schools and the state certification of teachers. Prior to 1961 the powers and functions of the State Board of Education were primarily related to higher education in Michigan.

The most significant development of the State Board of Education as the central education agency in Michigan was the 1961-1962 Constitutional Convention. A new eightmember Board, elected on a partisan basis, was established with authority to appoint the state superintendent. This Board had two major powers. The first was leadership and general supervision over all public education except public four-year institutions of higher education. The second

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power was the general planning for, and coordination of, all public education, including higher education, with the duty to advise the legislature on needed financial resources.

The 1963 Constitution placed the four colleges supervised by the Board under four separate boards of control.

The powers of the State Board were limited by the constitutional status and powers held by each of the ten boards of Michigan's four-year institutions of higher education for the supervision of their institution and the control and direction of the expenditures of their institutions' funds.

It was apparent that the delegates to the Constitutional Convention attempted to make the State Board a planning and coordination agency for all public education while preserving the constitutional autonomy historically held by the University of Michigan and extending this autonomy to each of the ten higher education institutions. This attempt resulted in the major constitutional ambiguity in the powers and functions of both the State Board and the institutions of higher education. The interpretation of these powers is currently under adjudication in the Michigan Supreme Court.

The 1963 Michigan Constitution required the legislature to reorganize the executive branch of government into not more than twenty departments. This effort to centralize Michigan's government was enacted into law in 1965 and the Department of Education was made the principal

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state administrative department for all educational agencies except the boards of the ten four-year public colleges and universities. This increased significantly the size, scope, and powers of the former Department of Public Instruction.

The State Board of Education became the central education agency in Michigan on January 1, 1965. The executive officer is an appointed Superintendent who is the chief administrative officer of the Department of Education. The examination of the first eight years of the operation of the State Board 1965-1972 provided evidence that the Board has pursued vigorously the implementation of its constitutional and legal powers, including those related to higher education. Created 125 years ago to operate one small normal school, the State Board of Education in Michigan is now the constitutional and legal central education agency in Michigan.

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THE CONSTITUTIONAL AND LEGAL DEVELOPMENT OF THE STATE BOARD OF EDUCATION AS THE CENTRAL EDUCATION AGENCY IN MICHIGAN

By

The Proverbs Glenn Earl Heck

A DISSERTATION

Submitted to
Michigan State University
in partial fulfillment of the requirements
for the degree of

DOCTOR OF PHILOSOPHY

College of Education

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ACKNOWLEDGMENTS

The Proverbs have reminded those who would be wise to "withhold not good from them to whom it is due, when it is in the power of thine hand to do it." Proverbs 3:27.

Many individuals have contributed to the completion of this dissertation and the writer takes this opportunity to acknowledge his appreciation to those to whom it is due.

Dr. Carl Gross, Chairman of the doctoral committee, has been appreciated as a teacher and friend and valued as the constant counselor in the completion of this study.

Special thanks are due Dr. Jay Artis, Dr. Cole Brembeck, and Dr. Ted Ward, members of the doctoral committee, for their advice and insights in designing this study.

The inspiration for and initial work on this topic originated in the School Law Seminar of Dr. George M.

Johnson. His conviction as to the central place of law gave purpose and direction to the study. The constant support of Dr. Norman Bell will be long remembered.

The unwavering encouragement and assistance of his wife Virginia, the long hours and hundreds of typed pages by son Paul, the ball games missed by son Scott, and the

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playtime forgone by daughter Lynnaea have made the completion of the dissertation possible, and a grateful husband and father acknowledges his appreciation.

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CHAPTER I

INTRODUCTION

State educational agencies and their powers, organization and functions have been matters of spirited public discussion, debate and decisions in recent decades. This is probably true to a degree not experienced since the birth of our state systems of public education more than a century ago under the able leadership of such educators as Mann and Barnard in the East and Mills and Pierce in the Old Northwest. The development and effectiveness of these agencies in the fifty American states continues to capture the interest of both the scholar and the public.

Two decades of teaching and administration have quickened the interest of the writer in the origins, growth, and future of educational governance. Graduate study in the historical and social foundations of education, particularly the views of Thomas Jefferson and John Dewey, has reinforced this interest in the relationships between political and educational systems. It is at the state level in particular that the study of governing agencies seems most promising as an area for research and writing.

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This study is one such effort to explore how leaders and citizens of a modern, large industrial state have provided central educational agencies for the organization and administration of their state system of education.

The fundamental structure of a state system of education is set by the constitutional and legal system of the state. Because it is ratified by the people, the constitution serves as the source of the powers of governmental branches, boards, and agencies. Five times in the past century and a half the citizens of Michigan have called for a constitutional convention to review and revise their basic charter of government. The current constitution was written by the delegates to the 1961-1962 Constitutional Convention. It was ratified by the people on April 1, 1963 and became the basic law of the state on January 1, 1964. Three previous constitutions had been ratified by the citizens of Michigan in the years 1835, 1850, and 1908. Each of these four constitutions contained provisions for one or more state agencies of education.

It is this constitutional and legal development of the central education agencies of Michigan, from 1805 to 1973, that is the major concern of this study. The focus of this historical study will be on the constitutional and legal development of the powers, organization and functions

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Agency of Michigan.

The Problem

This study assumes that state central education agencies are important resources that enable state governments to meet their educational responsibilities. Current discussion and debate centers around the most effective ways to select and organize these agencies. There is a need for studies which examine the decisions that determine which agencies are chosen and that delineate their powers, organization, and functions. This study examines one such agency, the State Board of Education in Michigan.

The central problem considered in this study is whether the State Board of Education has become the constitutional and legal central education agency for all public education in Michigan. The focus is on the historical development of the powers, organization, and function of the State Board of Education before, during and after the 1961-1962 Michigan Constitutional Convention.

The general hypothesis of the study is that the
State Board of Education has become the constitutional and

In this study the term "Central Education Agency" means an organization established by law that is characterized by state-wide jurisdiction for a part, or all, of the educational responsibilities of the state. A fuller treatment of this term is in the section, "definitions," in this chapter.

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legal central education agency for all public education in Michigan except for the powers and functions each board of a public four-year college or university has for the general supervision of its institution and the control and direction of the expenditures of the institution's funds.

Three sub-problems, each considering a salient feature of the general problem, provide direction to the study and permit an in-depth treatment of the major features of the problem. Each sub-problem utilizes a specific hypothesis to express and present the crucial dimensions of the problem in an explicit statement. Each of the three sub-problems is developed in one of the chapters of this study.

Chapter two examines the historical development of three central education agencies in Michigan from 1805 to 1961. The problem is to determine the origins, developments, and interrelationships of the constitutional and legal powers, organizations, and functions of the three central education agencies—the University of Michigan, the Office of the Superintendent of Public Instruction, and the State Board of Education. It is hypothesized that these central education agencies were sequentially created and enlarged by the Michigan citizens and their branches of general government as a means of meeting emerging educational functions requiring agencies of special governance.

The second sub-problem is to consider whether the discussions and decisions of the delegates to the 1961-1962

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Constitutional Convention altered the powers, organizations and functions of the State Board of Education, the Office of the Superintendent of Public Instruction, and the boards of control of the public universities and colleges. It is hypothesized that the convention delegates intended that the 1963 Constitution make the State Board of Education the central education agency for all public education in Michigan in a manner that preserved certain essential elements of the constitutional autonomy of all degreegranting public institutions of higher education. Chapter three analyzes these developments.

The final sub-problem is to ascertain whether the implementation of the 1963 Constitution during the 1963-1973 decade has affected the powers, organization and functions of the State Board of Education related to elementary and secondary public education and to determine the extent to which legislative, executive, judicial, and State Board of Education decisions in this decade have implemented and interpreted the powers, organization, and functions of the State Board for all public higher education in Michigan.

It is hypothesized that the State Board of Education has been implemented as the constitutional and legal state central education agency for all public elementary and secondary education and has been implemented in selected but significant cases as the central education agency in Michigan for the general planning and coordination of all education, including higher education, with the

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power to advise the legislature as to the financial requirements for all public education in Michigan. Chapter four describes and analyzes selected legislative, executive, judicial, and State Board of Education decisions related to the implementation of the constitutional powers, organization and functions of the State Board of Education for all public education in Michigan.

Assumptions and Explanatory Framework

The basic assumption of this study is that state constitutions and legislative acts play a major part in determining the powers, organization, and functions of all state central education agencies. Three additional assumptions underlie the procedures and interpretations of this study. The first of these assumptions is that the history of a state's legal documents presents a pattern of the changes desired by a majority of the citizens for their state's educational governance. The next assumption is that the recent changes in the Michigan constitution reflected a desire of a majority of the citizens voting to modernize their state government in the direction of providing stronger, more effective, centralized executive leadership. The final assumption is that the constitutional and legal changes in the powers, organization, and functions of the State Board of Education in Michigan reflect this desire for stronger, more effective, centralized leadership for education in Michigan.

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Three ideas, or themes, provide an explanatory framework for this study. 1 The major explanatory, or interpretive, theme developed throughout this study holds that, historically, the governing of education in the American states has moved from general to special governance; from the legislatures and local town or county governments to special offices and agencies set up to govern education. These have historically included the Office of the Superintendent of Public Instruction, state boards of education, governing boards of institutions of higher education and county and local school boards. This study supports the further observation that this movement from general to special educational governance has been a gradual movement with specific powers and functions of education transferred from general to special government agencies at different times in the history of the development of a state's system of education.

The second, and supporting, explanatory theme is that there has been a twentieth century tendency to centralize more functions of state government under the administration of a strong executive office or offices. This enlargement of state administrative systems generally involves an increase in the size, the scope, and the powers

¹The essential elements of these ideas are expanded and treated in greater depth throughout this study. The sources of these ideas are acknowledged in the review of the literature or in the appropriate place and setting in which the ideas are utilized.

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The third explanatory theme deals with the developing and expanding functions of state central education
agencies. Analysis of these education agencies indicate
that throughout their history they have expanded the number
of functions performed. In addition, the primary function
of the agency has changed from data gathering, to regulatory, to service, to a leaderhip function. Each of these
explanatory themes is developed throughout the subsequent
sections of this study.

Delimitation of the Study

This study will be limited to the central state education agencies of Michigan. It will feature the development of the State Board of Education. It will center on constitutional provisions and selected legislative and judicial actions. The study will trace the historical development of the central education agencies with special emphasis on the period, 1961-1973.

Limited attention will be given to the constitutional and legal powers and functions of the State Board of Education in the areas of teacher education and certification, junior and community colleges, private institutions of education at any level, and federal programs and funds. Any extensive development of these topics would either make

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the scope of the study unwieldly or limit unduly the treatment of the major problems proposed for the study.

Financial and fiscal provisions relating to the State Board of Education in Michigan will not be analyzed.

Recent fiscal studies of Michigan education are available.

Definition of Terms

Several terms used repeatedly in this study are subject to more than one definition or understanding. These terms are used in this study with the following definitions.

State Board of Education: The State Board of Education in Michigan is considered in this study to have major responsibilities for all elementary and secondary education and partial responsibility for higher education. It is defined in this study as "the legally constituted body having the major responsibility for the general supervision of elementary and secondary education in the state. This

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Public reports and studies will be cited in the footnotes by author or editor, if given; then title, agency of government, and facts of publication. This will facilitate second or later references to these sources by omitting long agency names, e.g., U.S., Department of Health, Education, and Welfare, Office of Education. However, in the section "Printed Public Documents and Reports," the bibliography will list these reports and studies in the standard order of agency of government, title, author or editor, if any, and facts of publication.

For recent fiscal studies of Michigan education see

For recent fiscal studies of Michigan education see
J. Alan Thomas, School Finance and Educational Opportunity
in Michigan: Michigan School Finance Study, Michigan
Department of Education (Lansing, 1968). For higher education see State Flan for Higher Education in Michigan
(Revised; February, 1970), Michigan Department of Education (Lansing, 1970).

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board [has] partial responsibility for such areas as higher education."

Central Education Agency and State Education Agency in this study are used synonymously and interchangeably.

Each is defined as "the organization established by law for the educational responsibility of the state. [It is] characterized by state-wide jurisdication and may be composed of a state board, chief executive officer, and staff." In this study the current central education agency in Michigan includes the State Board of Education, the Superintendent of Public Instruction, and the Department of Education.

<u>Function</u> refers to the purposes expressed in activities and services by the central education agency.³

Two terms used in the Michigan constitution that indicate functions of the State Board of Education are

Llevels. The Cold War and Sputnik released

¹ Yeuell Y. Harris and Ivan N. Siebert, eds., The State Education Agency: A Handbook of Standard Terminology and a Guide for Reading and Reporting Information About State Education Agencies, U.S., Department of Health, Education, DE-23054 (Mashington, D.C.: Government Printing Office, 1971), p. 84. This source is designed to standardize the categories and definitions of terms related to state education agencies. Each term is defined and assigned a classification number. "State Board of Education" is number 02. 01 01 010.

² Ibid. Frank J. Falley, Attorney Gameral, State

³This definition corresponds to that developed by James C. Charlesworth, ed., <u>Contemporary Political Analysis</u> (New York: The Free Press; London: Collier-Macmillan Limited, 1967), pp. 6-7, 72-73.

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"general planning" and "coordination." They are defined in this study in harmony with the following judicial definitions and interpretations.

General Planning: Each of these two words has been defined judicially as follows; "general" means "pertaining to the whole" and "planning" means "systematic development" pertaining to all public education in Michigan. 1

Coordination: The term "coordinate" has been judicially interpreted to mean "to regulate and combine in harmonious action."

Need for the Study

Significant social forces have prompted a renaisance of interest and activity concerning state central education agencies. The post World War II "G. I. Bill" and the baby boom quickly expanded educational aspirations, enrollments and costs at all levels. The Cold War and Sputnik released federal funds to the states. Computers, automation and the space race required more extensive technical and higher education. Desegregation, the civil rights acts and the disadvantaged focused the attention and flow of federal and state funds toward the school systems as agents of social

letter, Frank J. Kelley, Attorney General, State of Michigan, to Senator Edward J. Robinson, October 5, 1965, p. 5. A copy of this letter is included as "Appendix D," in State Plan for Higher Education in Michigan, p. 97.

²Ibid., p. 98.

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action and change. Combined, these forces have resulted in greatly increased governmental action and funds. The state education agencies are expected to carry out these provisions effectively, efficiently, and economically. It is the state boards of education that have increasingly become the key agencies given these new and enlarged responsibilities.

Support for studies of state education agencies such as the State Board of Education in Michigan comes from scholars who seek a more precise understanding of the relationships between the political and educational systems, particularly at the state level. Thomas Eliot, a political scientist and co-author of a study of politics and education in Illinois, Michigan, and Missouri, comments on the viability of state studies. In the preface, Eliot notes that

. . . there are only fifty states, and the politics of education at the state level is a significant subject. Moreover, it is a manageable subject for research which can develop workable hypotheses of general applicability. . . I hope that many other states will be examined . . for the quality of education in this country may well depend, in the long run, on a deeper understanding of the realities of state politics—especially among educators. 1

Robert Will, in a chapter on the central education agency, urges that any improvements advocated for state

Nicholas A. Masters, Robert H. Salisbury, Thomas H. Eliot, State Politics and the Public Schools: An Exploratory Analysis (New York: Alfred Knopf, 1964), pp. v-vi.

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education agencies utilize the results of viable theoretical knowledge and objective study.

Considering all the problems that must be resolved before reasonably sound changes can be made in State administration, any study undertaken to improve State administrative structure and organization, whether in general or in part, must be supported by theoretical constructions that provide a firm foundation for objective discussion.1

Will then suggests one approach in the study of state administration:

Students of State government generally agree that one State agency or authority should administer the State educational programs conducted to regulate and support public elementary and secondary education. While this is not so in practice in some states at the present time, the trend in the past 25 years has been decidely in this direction. The concept of one State agency for elementary and secondary education is treated as an ideal in this study, and the agency is identified as the Central Education Agency. 2

James B. Conant, in an address to state leaders in

December, 1964, supported those advocating stronger education agencies at the state level when he stated:

Let me repeat what I said . . . to the Council of Chief State School Officers. [Their] organization has long held the view that there should be in each state a lay board of education, and the board should appoint the chief state school officer. According to the Secretary of the Council, during the sixteen years of its existence, the number of states so organized has increased from eight to twenty-four. To my mind this is progress, but unfortunately some of our most populous states are in the twenty-six which are not properly

¹ Robert F. Will, State Education: Structure and Organization, U.S., Department of Health, Education, and Welfare, Office of Education, 0E-23038, Misc. No. 46 (Washington, D.C.: Government Printing Office, 1964), p. 7.

²Ibid., p. 1.

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organized according to my view . . ., therefore, an immediate task in more than one state is to enact laws or amend the state constitution so that the state educational machinery will be made effective. 1

Conant's views on effective state educational systems, developed earlier in his book, Shaping Educational Policy, were "ideas whose time had come." On the basis of Conant's idea two major investigations were launched. Governor Terry Sanford of North Carolina called a meeting in May, 1965 of professional educators and governors to seek advice "on the best method and organizational structure for bringing together the political and educational leadership of the several states for the purpose of studying, planning, suggesting and promoting sounder objectives and goals for the improvement of education in America." In June, 1966, thirty-three states signed a "Compact for Education" creating the Educational Commission of the States as "a partnership between the educational leadership and the political leadership for the advancement of education."4

James B. Conant, "Shaping Educational Policy," State Government, Volume XXXVIII, No. 1 (1965), p. 35.

²Proposal, Terry Sanford, to governors, educators, associations, and foundations, April 30, 1965, as cited in The Compact for Education (Denver: Education Commission of the States, n.d.), p. 6. This forty-one page brochure presents the origin, purposes and developments of the Education Commission of the States. It contains the text of the "Compact for Education," a suggested Enabling Act for State legislatures and the membership as of January 1, 1967.

³Ibid., p. 10. ⁴Ibid., p. 1.

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This organization has sponsored numerous studies and conferences in state educational leadership.

Nor did the Council of Chief State School Officers
turn a deaf ear to Conant's advice on the need to strengthen
their central education agencies. The Council, supported
by a grant from the Office of Education in 1966, authorized
a major study of state departments of education. The study
was published in two volumes in 1969. The "Foreword" in
each volume opens with these words:

Provision of education of broad scope and high quality to serve all the people is a major responsibility of the states. Standing in a strategic position between the local school agencies, on the one hand, and the federal government, on the other, the state department of education is an important factor in making such education opportunities available in each state.²

New evidence of the interest of the federal government in the role of central state education agencies also emerged. The study just cited was funded in part from monies appropriated for Title V of Public Law 98-10, known as the Elementary and Secondary Education Act of 1965.

Title V funds were to be used to strengthen state departments of education by providing "basic grants to State education agencies to develop, improve, and/or expand

ljim B. Pearson and Edgar Fuller, eds., Education in the States: Historical Development and Outlook (Washington, D.C.: National Education Association, 1969).

Edgar Fuller and Jim B. Pearson, eds., Education in the States: Nationwide Development Since 1900 (Washington, D.C.: National Education Association, 1969).

²Fuller and Pearson, Nationwide Development, p. iii.

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professional leadership activities." An advisory committee was established to review this program, chaired by the Commissioner of Education. In the first annual report of this Advisory Council on State Departments of Education, John Gardner, Secretary of Health, Education and Welfare, stated his views concerning the important role state education agencies must play. In his letter of transmittal to President Johnson, dated March 31, 1966, Secretary Gardner stated that

. . . strengthening of the 55 State and territorial education agencies is essential to the success of the Nation's efforts to improve the quality of educational opportunity. The State education agency is the central leadership agency in our decentralized educational system.²

The importance placed on the state education agency as the central <u>leadership</u> agency of the state by Gardner, the Council of Chief State School Officers and others reinforced the importance of Conant's earlier observation that "an immediate task in more than one state is to enact

we and youth. This was parried out smell

lmproving State Leadership in Education, an Annual Report of the Advisory Council on State Departments of Education, U.S., Department of Health, Education, and Welfare, Office of Education (Washington, D.C.: Government Printing Office, March, 1966), p. 6. In this publication "State education agency" means "the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools," p. 46.

² Ibid., p. iv.

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laws or amend the state constitution so that the state educational machinery will be made effective."

Conant's observation on the cause of weak administration of state education is supported by the report of the Committee on Economic Development. The report gives several reasons for the failure of the states to come to grips with current social, economic, and educational issues. One key reason is that "most state governments are burdened by obsolete structural organizations that are often fixed in their constitutions." In their summary of recommendations the first formal recommendation states that "state constitutional revision should have highest priority in restructuring state governments to meet modern needs."

The State of Michigan in this century has mirrored many of the conditions enumerated in the preceeding pages. As a large industrial state it has all the social forces influencing education in the post World War II period. The State has attempted to provide public education, including viable programs in higher education, to the large majority of its children and youth. This was carried out, until 1963, under a state constitution adopted in 1908 that

Conant, "Shaping Educational Policy," p. 35.

²Committee for Economic Development, <u>Modernizing</u>
<u>State Government</u>, a Statement on National Policy by the
<u>Research and Policy Committee (New York: Committee for</u>
<u>Economic Development</u>, 1967), p. 15.

³Ibid., p. 19.

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reflected the rural orientation of its authors and their distrust of a strong centralized government, especially in the executive agencies.

Control of education was decentralized with strong local boards of education for the elementary and secondary schools and higher education operated by several independent boards. An elected State Superintendent of Public Instruction with his supporting department of education was the central state agency for public elementary and secondary education. The State Board of Education had its primary responsibilities in the area of higher education. Four of the state's institutions of higher education were under its jurisdiction and it was responsible for the approval of all teacher education programs and the certification of teachers. Other responsibilities had been delegated "by law" to the State Board over the years. In short, by the middle of the twentieth century, Michigan was one of the industrial states that had not yet established a strong central education agency for its public education system.

While Michigan did reflect many of the needs that were noted by the spokesmen for stronger state education agencies, it also led the large industrial states in seeking solutions to these needs through extensive studies of its educational needs and through constitutional revision. In 1955, the Michigan State Legislature created a committee under the title, Michigan Legislative Study Committee on Higher Education. The task of the ten-member committee was

"to study and recommend ways and means whereby the increasing needs of the State for higher education may be met in the most effective and economical manner." A major recommendation of the committee was that "the Legislature take immediate steps to create and establish a board for the coordination of the State-controlled program of higher education in Michigan." The report went on to say that "If a general revision of the Constitution is undertaken . . . it might be well to consider the recognition of such a Board in the revised Constitution . . ."

The decade of the sixties was a particularly significant period in the development of the powers, organization and functions of the Michigan State Board of Education. In 1960 the people of Michigan approved the convening of an unlimited constitutional convention to rewrite the 1908 constitution. The Michigan Constitutional Convention was held in 1961-1962 and ratified by the people of Michigan in April of 1963. The major educational proposal adopted in the Constitution concerned the enlarged powers and functions of the State Board of Education. Subsequent legislative

lJohn Dale Russell, <u>Preliminary Report to the Michigan Legislative Study Committee on Higher Education</u>, <u>Michigan</u>, <u>Legislature</u>, <u>Study Committee on Higher Education</u> (<u>Lansing</u>: <u>March</u>, 1957), p. vi.

²John Dale Russell, <u>Control and Coordination of Higher Education in Michigan</u>, Staff Study No. 12, Michigan, Legislature, Study Committee on Higher Education (Lansing: July, 1958), p. 68.

³ Ibid.

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acts have implemented these provisions of the constitution.

This study analyzes these developments.

Review of Related Literature

Studies relating directly to the constitutional and legal development of the central education agencies in Michigan are limited in number. There are no studies that deal primarily with the State Board of Education, the Office of the Superintendent of Public Instruction, and the Department of Education as the central education agency in Michigan. There are studies which deal with (1) the constitutional and legal development of education in Michigan, (2) the Department of Education, (3) the history of public education in Michigan, and (4) the relationship of politics and education in the state. In addition, several studies deal with (1) Michigan constitutional development, (2)

American state school administration, and (3) the development of central education agencies in the United States.

James B. Edmonson, in 1926, published The Legal and Constitutional Basis of a State School System. The title page of the book indicated that this was "an analysis of the constitutional provisions, laws, and the supreme court decisions affecting the school system of the State of Michigan." The stated aim of the study was to provide

James Bartlett Edmonson, The Legal and Constitutional Basis of a State School System, with an Introduction by I. N. Edwards (Bloomington, Ill.: Public School Publishing Company, 1926), p. ii. This book was the result

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school administrators and teachers with an "understanding of the constitutional and legal principles underlying the organization of the public school system . . . of Michigan. "1 In the Introduction of Edmonson's book, I. N. Edwards supports this aim by stating that "since the policy of a state can find expression through no other channel than its law, those who would understand that policy or shape it must know the law both in its present form and in its historical development."2 Three chapters of the study dealt with central education agencies. Chapter I traced the constitutional provisions for education from 1835 to 1925. Chapter IX, "Centralizing Tendencies in Educational Legislation," concluded with a warning against "too great a degree of centralization of power . . . in the office of the state school official." Chapter X contained Edmonson's recommendation that

. . . the constitution should be so changed as to provide for the election of the state superintendent of public instruction by a state board of education. . . . This proposed change would of necessity involve

of Edmonson's thesis written under the guidance of Issac N. Edwards of the University of Chicago. In turn, Edward's unpublished thesis at the University of Chicago was on the "Constitutional Basis of Public School Administration." No dates are provided for either thesis by Edmonson in either his Preface or Bibliography. At the time his book was published Edmonson was Professor of Secondary Education and Inspector of High Schools at the University of Michigan. He later became the second Dean of the School of Education at the University.

¹Ibid., p. v. ²Ibid., p. viii.

[&]quot;Ibid., p. 156. structure of the State because Agency as their focal point," p. 29.

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a modification of the constitutional provision for the state board of education. 1

Edmonson's study of a half century ago touched on two of the explanatory themes developed in this current study:

The (1) tendency toward centralization as evidenced by (2) the increased functions of the central education agencies.

The staff of the Michigan Department of Education prepared the chapter on "Michigan" in Education in the States: Historical Development and Outlook, published in 1969. The chapter documents briefly the growth of the central education agency from the origin of the Office of the Superintendent of Public Instruction to the current State Board of Education. The growth of the functions of the Department of Education are described. Currently the Department of Education is a part of a twelve-state study under way by the Educational Governance Project directed by Roald F. Campbell and Tim L. Mazzoni. The main aim of this empirical investigation is to seek to determine whether

libid., p. 160.

²Pearson and Fuller, <u>Historical Development</u>, pp. 593-618.

³Tim L. Mazzoni, Jr. and Roald F. Campbell, "State Governmental Structure and Education Policy Decisions: A Statistical Exploration" (paper presented at the 1973 annual meeting of the American Educational Research Association, New Orleans, Louisiana, March 1, 1973). The authors note that "this project is funded by the U.S. Office of Education under Section 505, Title V of ESEA. Its primary objective is to develop and appraise a number of alternative models for state educational governance, models that will have the policy-making structure of the State Education Agency as their focal point," p. 29.

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the organization and structure of state government, including educational governance, "makes a crucial difference for the substance of . . . policy decisions." Findings from this major study on the function of policy-making will be forthcoming in June, 1974.

Numerous secondary sources treat the history of public education in Michigan. Five of these books will be reviewed. Frank Woodford's book on the life of Augustus Woodward treats Michigan education during territorial days. The book describes Woodward's formative ideas and actions on the University of Michigan and a state system of education. 3 The four-volume "History of Education in Michigan" series, published by the Michigan Historical Commission, provides a comprehensive description of Michigan education. The major volume of the series was The Michigan Record in Higher Education, by Willis Dunbar. 4 The volume traces the development of higher education in Michigan through the 1961-1962 Constitutional Convention. In general, Dunbar's analysis supported the viewpoint that Michigan's public education system, from its conception by Woodward, was meant to be a state system embracing all

¹<u>Ibid.</u>, p. 1. ²<u>Ibid.</u>, p. 29.

³Frank B. Woodford, <u>Mr. Jefferson's Disciple: A Life of Justice Woodward</u> (East Lansing, Mich.: Michigan State University, 1953).

Willis F. Dunbar, The Michigan Record in Higher Education (Detroit: Wayne State University Press, 1963).

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∵e ~à: levels of education. Dunbar, a product of Michigan's system of higher education, favored continued constitutional autonomy for higher education in Michigan. The closing pages of Dunbar's book deal specifically with the actions of the 1961-1962 Constitutional Convention related to higher education, and the issues involved in the powers, organization and functions of the State Board of Education.

The other three volumes of the History of Education in Michigan series covered all public education, other than higher education, from territorial days to 1967. Each of the authors, Dain, 1 Starring and Knauss, 2 and Disbrow, 3 covered a constitutional period in Michigan history. Dain covered events to 1850; Starring and Knauss, 1850 to 1908; and Disbrow from 1908 to approximately 1965. Each volume describes briefly the historical developments of the State Board of Education and the Office of the Superintendent of Public Instruction with some analysis of these developments in relationship to political and educational movements in Michigan.

lFloyd Dain, Education in the Wilderness, The History of Education in Michigan Series, Vol. I (Lansing: Michigan Historical Commission, 1968).

²Charles R. Starring and James O. Knauss, <u>The Michigan Search for Educational Standards</u>, The History of Education in Michigan Series, Vol. II (Lansing: Michigan Historical Commission, 1969).

³Donald W. Disbrow, Schools for an Urban Society, The History of Education in Michigan Series, Vol. III (Lansing: Michigan Historical Commission, 1968).

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The past decade has produced a number of studies that explore the relationships between politics and education. A seminal work by Bailey defined politics as "the fashioning of coalitions of influence in an attempt to determine what values will be authoritatively implemented by government." Masters, Salisbury and Eliot studied "how and by whom power is exercised when decisions are made concerning public schools at the state level" in Michigan, Missouri, and Illinois. Michigan was categorized as "a political arena where power is fragmented."3 The study occurred during the 1961-1962 Constitutional Convention and the authors noted that the constitutional change of greatest probable significance was that the "state superintendent will no longer be elected but rather appointed for an indefinite term by an eight member partisan-elected state board."4 The authors indicated that "if constitutional revision does not lead to improvements" Michigan will continue to be characterized by temporary alliances and lack of consensus on school policies. 5

¹ Stephen K. Bailey, and others, Schoolmen and Politics: A Study of State Aid to Education in the Northeast (Syracuse, N.Y.: Syracuse University Press, 1962), p. vii.

²Masters, Salisbury, and Eliot, <u>State Politics and</u> the Public Schools, p. 261.

³<u>Ibid.</u>, pp. 262-63. ⁴<u>Ibid.</u>, p. 227.

⁵ Ibid. ration, The University of Michigan, 1966).

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Three studies in the Michigan Governmental Studies series deal directly with the recent constitutional changes in Michigan. Friedman designates his study as "A Case Study in the Politics of Constitution-Making." His basic thesis was "that political forces within a state will support organizational structure likely to enhance the achievement of their goals."2 This thesis was based on the assumptions that (1) "constitution-making . . . is . . . an integral part of the political process," and that (2) "decisions made by a constitutional convention concerning administrative organization would be political in nature."3 The two major studies of the latest Michigan Constitution were by Sturm. 4 In Constitution-Making in Michigan Sturm devotes a part of Chapter X to the major issues and decisions relating to education, including the "most important changes . . . for an expanded elective State

Robert S. Friedman, The Michigan Constitutional Convention and Administrative Organization, Michigan Governmental Studies No. 44 (Ann Arbor: Institute of Public Administration, the University of Michigan, 1963).

²Ibid., p. 2. ³Ibid.

⁴Albert L. Sturm, Constitution-Making in Michigan, 1961-1962, Michigan Governmental Studies No. 43 (Ann Arbor: Institute of Public Administration, The University of Michigan, 1963). The second volume, five years later, was by: Albert L. Sturm and Margaret Whitaker, Implementing a New Constitution: The Michigan Experience, Michigan Governmental Studies No. 50 (Ann Arbor: Institute of Public Administration, The University of Michigan, 1968).

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Board of Education." The later study by Sturm and Whitaker contains a brief, but excellent chapter on education. Of particular significance is the treatment of the growing pains of the "emerging pattern of control relationships in higher education." These analytical studies by political scientists take the view that partisan political decisions affected Michigan government, including education, during a period of centralization of administrative functions of state government.

Cubberley, ³ Thurston and Roe, ⁴ and Campbell⁵ represent general works on the administration of schools at the state level during different periods of the twentieth century. <u>State School Administration</u>, authored principally by Roe, contains an excellent chapter on the "Legal Basis"

¹Sturm, Constitution-Making in Michigan, 1961-1962, p. 232.

Sturm and Whitaker, Implementing a New Constitution, p. 187.

³Ellwood P. Cubberley and Edward C. Elliot, <u>State</u> and <u>County School Administration</u> (New York: The Macmillan Co., 1915).

⁴Lee M. Thurston and William H. Roe, State School Administration (New York: Harper and Brothers, Publishers, 1957). In the Editor's Introduction, John Guy Fowlkes states that "this volume had its origin in a conversation between Lee Thurston and me in 1950. . . . His untimely death left practically all the writing of the book to Dr. Roe," p. viii.

Second F. Campbell, and others, The Organization and Control of American Schools, 2nd ed. (Columbus, Ohio: Charles E. Merrill Publishing Company, 1970).

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for State School Administration" which details and documents the powers and functions of central education agencies.

Campbell, in Chapter III, "American Schools and State Government," introduces the explanatory theme of "from general to special government" and stresses the changing functions of the central education agencies in the direction of leadership roles.

The United States Office of Education has published several studies on state education agencies since World War II. Of these, the studies by Beach, Will, and Harris have contributed through three decades to the explanatory themes related to the changes in powers, organization, and functions of central state education agencies. In addition, these reports have presented a valuable description of all the American state education agencies as to their powers, organization, and functions at the time each report was published.

The sources reviewed above have contributed to the general area of study of the constitutional, legal, and administrative decisions that have affected the development

¹ Fred F. Beach, The Functions of State Departments of Education, U.S., Federal Security Agency, Office of Education, Misc. No. 12 (Washington, D.C.: Government Printing Office, 1950); Will, State Education: Structure and Organization; Sam P. Harris, State Departments of Education, State Boards of Education, and Chief State School Officers, U.S., Department of Health, Education, and Welfare, Office of Education, OE73-07400 (Washington, D.C.: Government Printing Office, 1973).

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of the central education agencies in the various American states. Several sources have studied some aspects of the central education agencies in Michigan. None of the studies reviewed in the literature have dealt primarily with the State Board of Education in Michigan as a central education agency.

Sources of Data

The principal primary and secondary sources of information for this study can be grouped under five categories: (1) public documents and reports; (2) unpublished materials; (3) interviews and correspondence; (4) newspapers; and (5) books and articles.

Printed Public Documents.--Important primary sources of information were the proceedings of the Michigan constitutional conventions of 1835, 1950, 1907-1908, and 1961-1962, the Constitutions, the legislative acts related to the central education agencies, the related opinions of the Attorney General of Michigan and the appropriate decisions of the courts. The minutes of the original State Board of Education were reviewed from 1925 through 1964. The published minutes of the current State Board of Education from January, 1965 through June, 1970 and other Board reports were the central sources of data for the recent developments related to the State Board of Education in Michigan. Other sources are included in the bibliography.

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Unpublished Materials. -- The principal primary sources of unpublished materials are the Minutes of the State Board of Education from July, 1970 through June, 1973; the records of the Education Committee of the 1961-1962 Constitutional Convention; and the correspondence of Mr. Alvin Bentley, Chairman of the Convention Education Committee. The official journal of the Education Committee, a log of minutes, and the delegate proposals for changes in the education article of the constitution were the important materials of the Education Committee. These materials were a part of the extensive files of the Education Committee which are now a part of the Alvin Bentley Collection of the Michigan Historical Collections located at the University of Michigan. All these materials were made available to the writer in the summer of 1966 for a three week period before the records were transferred to the Michigan Historical Collections. Subsequent research on these files at the University of Michigan has been carried out.

Interviews and Correspondence. -- Interviews with selected individuals associated with the Constitutional Convention of 1961-1962 and the post-convention central education agencies in Michigan provided a valuable source of information in this study. Included among those interviewed were Mr. Alvin Bentley, Dr. Ira Polley, and Dr. Ferris Crawford. The late Mr. Bentley was Chairman of the Committee on Education of the 1961-1962 Constitutional Convention, a candidate for membership on the State Board

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in the fall of 1964, and subsequently a member of the Board of Regents of the University of Michigan. Mr. Bentley was interviewed on numerous occasions in August of 1966 in his offices at Owosso, Michigan. During this period the files of the Committee on Education were at the Bentley offices in preparation for their transfer to the Michigan Historical Collections. These interviews provided an opportunity to question Mr. Bentley concerning his assessment of Convention and Committee members and the part these participants played in the decisions of the Convention. Dr. Ira Polley, trained as a political scientist, held three important posts in the 1960s related to the areas under study. Prior to, and during the 1961-1962 Constitutional Convention, Dr. Polley was State Controller for Michigan. In December of 1962 Dr. Polley became Executive Director of the Michigan Council of State College Presidents. From May, 1966 until October 8, 1969 Dr. Polley was the first appointed Superintendent of the State Board of Education in Michigan. Two interviews were held with Dr. Polley, one while he served as state superintendent and one in 1972. Dr. Crawford, interviewed in July, 1973, has been a member of the Department of Education prior to, during and since the 1961-1962 Constitutional Convention. During much of this period Dr. Crawford has served as Deputy Superintendent for Elementary and Secondary education. Dr. Polley and Dr. Crawford have provided their "inside" perspectives on the development of the State Board of Education.

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Newspapers. -- Three newspapers, The Detroit Free

Press, The Detroit News, and the Lansing State Journal, were

examined for facts and viewpoints pertaining to major

events, activities and legislation related to the State

Board of Education from 1958 to 1973. These accounts

provided both information and the perspectives available

to the public at the time of selected constitutional,

legislative, executive, and judicial decisions related to

the State Board.

Books and Articles. -- The numerous secondary sources not reviewed in the literature are listed in the bibliography.

Methodology

This study has employed a documentary-historical approach in the treatment of source materials and data. Descriptive materials are presented, analyzed, and interpreted in harmony with the explanatory framework presented earlier. The methodology is a historical treatment of the constitutional and legal development of the State Board of Education in Michigan analyzed according to its powers, organization, and functions. Some emphasis is given to an analysis of the functions—the purposes as expressed in activities and services—of the State Board. This functional analysis permits a more precise treatment that is

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in harmony with recent directions in the study of central governmental agencies. 1

Overview of the Thesis

Chapter I has presented the problem of whether the State Board of Education has become the constitutional and legal central education agency for all public education in Michigan. The need for the study and the resources utilized in the study have been established.

Chapter II now examines the historical development of three central education agencies in Michigan from 1805 to 1960 with emphasis on the State Board of Education. The

Political scientist James Charlesworth, in a review of the more recent methodological approaches to the study of government, stated that the structural-functional approach has contributed "a shift of emphasis from physical, legal, and historical description of institutions and agencies to an identification of functions—that is, services." James C. Charlesworth, ed., Contemporary Political Analysis (New York: The Free Press, 1967), p. 7.

Much of the recent writing and research on educational administration by Roald Campbell and associates has employed a structural-functional-systems approach with particular emphasis on the policy-making function of educational agencies. A concise, clear delineation of this approach is in Roald F. Campbell, Gerale E. Sroufe, and Donald H. Layton, eds., Strengthening State Departments of Education (Chicago: Midwest Administration Center, University of Chicago, 1967).

Some current scholars in history, political science and education are studying the development of institutions and organizations in light of the functions these structures serve.

Social historian Samuel P. Hays notes that "the past century has witnessed a persistent development of administrative systems" and urges research that studies the "increasing number of functions within the system."

Samuel P. Hays, "A Systematic Social History," in American History, Retrospect and Prospect, ed. by George Athan Billias and Gerald N. Grob (New York: The Free Press; London: Collier-Macmillan Limited, 1971), pp. 337-338.

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chapter seeks to determine the origins, developments, and interrelationships of the organization of, and functions performed by, each of these three agencies.

Chapter III analyzes the discussions and decisions of the 1961-1962 Constitutional Convention in relationship to changes in the powers, organization, and functions of the State Board of Education, the Office of the Superintendent of Public Instruction and the university and college boards.

Chapter IV seeks to ascertain whether the implementation of the 1963 Constitution over the past decade has affected the powers, organization, and functions of the State Board in the areas of elementary and secondary education. The chapter also seeks to determine the extent to which legislative, executive, judicial and State Board of Education decisions have implemented and interpreted these powers, organization, and functions of the Board for all public higher education in Michigan.

The final chapter presents the writer's summary and conclusions as to the constitutional and legal status of the State Board of Education as the central education agency of Michigan.

CHAPTER II

CENTRAL EDUCATION AGENCIES IN MICHIGAN, 1805-1960

An understanding of the origin and development of the State Board of Education as a central education agency is found in a study of the history of Michigan's state system of education. Some background on the social and political forces that influenced the state's educational development is also desirable. In this chapter the writer will present a view of the development of the State Board of Education against the backdrop of selected aspects of Michigan's social, political, and educational past. The information presented will be organized around the interpretive themes that (1) the movement of the control of education in Michigan has been from general to special government, (2) education has become more centralized, and (3) the functions of the central education agencies have evolved toward leadership activities.

Three different institutions, offices or boards have served as central agencies of Michigan education.

Until recently all served simultaneously for more than a

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century as central agencies for some of the major functions of the state educational system. The original central education agency was the Catholepistemiad, or University of Michigan. It was the territorial education agency for a score of years from the University's founding in 1817 until the advent of statehood in 1835. In 1835 the first Michigan constitution created the Office of the Superintendent of Public Instruction as a second central education agency. The second Michigan constitution of 1850 added the third central education agency, The Michigan State Board of Education.

Any full understanding of the development of Michigan's state system of education involves an awareness of the origins, developments, and interrelationships of the University of Michigan, the Office of the Superintendent of Public Instruction, and the Michigan State Board of Education. Their development and the forces that shaped them provide an interesting and important background for any adequate comprehension of the current State Board of Education as the central education agency of Michigan.

Education was a function of general government during most of Michigan's thirty-two years as a Territory.

Those decades marked the turning point in American education

¹Cath-ol-a-pis-TEEM-i-ad.

²Michigan held its first Constitutional Convention in 1835 and wrote a constitution ratified that same year. However, Congress did not approve statehood until 1837.

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from the operation of schools by general government to that of special government offices designed to oversee education activities. Campbell notes that the two centuries of colonial education has been carried out largely under the direction of agencies responsible for the general governmental functions of the community, colony or newly formed states. It was during the middle third of the nineteenth century that the majority of states created state boards of education or offices of the superintendent of public instruction as agencies of special governance for education. It was during this period of change in the control of education within state government that the three central education agencies emerged in Michigan.

Educational events during Michigan's territorial status, 1805-1837, both mirrored the past and foretold the future of state systems of education. In actual practice territorial education was the responsibility of all of the men who ran the general government but proved to be a major concern of just a few of them. The limited quantity and dubious quality of available education reflected this lack of concern. However, the creation of a state system of education was a major concern of three of the men active in either the original territorial government or the first and second constitutional conventions in Michigan. This trio,

Campbell, and others, The Organization and Control of American Schools, pp. 51-54.

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Augustus Woodward, John D. Pierce, and Isaac Crary, seized the opportunity to "write large" on the political and educational "tabala rasa" that the emerging state of Michigan provided. Their ideas, as expressed in legislative and constitutional acts, gave both direction and design to the state system of education in Michigan that remain to the present day.

The University of Michigan, the state's first education agency, was the intellectual and legal creation of Augustus Woodward during his reign as Chief Justice of the territorial legislative board. A generation later, in 1835, John Pierce and Isaac Crary designed the second central agency, the Office of the Superintendent of Public Instruction, as the major educational provision of the first constitution. Pierce and Crary were both influential members of the second Constitutional Convention in 1850, when the third of the central education agencies of the state, the State Board of Education, was incorporated into the constitution. The origin and development of these three state central education agencies and the ideas of the men who designed them will be treated in some detail as background for understanding the current constitutional and legal status of the powers, organization, and functions of these agencies.

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The Catholepistemiad: Creation of Augustus Woodward

Michigan was a part of the original Northwest Territory which was established by an Act of the Continential Congress on July 13, 1787. In this Act Congress authorized the formation of not less than three nor more than five future states from the area bounded by the Appalachians on the east, the Ohio River on the south, the Mississippi River on the west, and the Canadian border on the north. Each state formed was to be admitted to the United States as an equal with the original thirteen states when it met the requirements set forth in the Act. Michigan became a Territory in a Congressional Act signed by President Jefferson effective July 1, 1805. appointed a five-member legislative board to govern the territory. This was expanded to a Territorial Council in 1823 and governed until statehood was fully achieved on January 26, 1837 in an Act authorized by Congress and signed by President Jackson.

It was during this thirty-two year period of territorial status that the concept of a state system of education was conceived by the mind and pen of Michigan's first Chief Justice, Augustus Woodward. His philosophy and ideas became legislative accomplishments.

Prior to Judge Woodward's arrival little concern was evidenced for education in Michigan. Woodford, in his

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volume on Judge Woodward, described public education of that time:

The time was ripe for such an undertaking [educational system] in Michigan. The complete absence of any publicly supported education in the Territory distressed Woodward. One hundred years since French settlement, Michigan had had no regular schools. The British, during their occupancy, had not filled the lack. Nor, at the outset had the American community. What schools there were, had been conducted mostly by itinerant schoolmasters and were of the private variety. The well-to-do traders and officers sent their sons East to be educated.

This was the situation in Michigan territory on July 1, 1805 when President Jefferson's newly appointed Governor Hull administered the Legislative Board oaths of office to Chief Justice Woodward, his two judicial associates and the Secretary of the Territory.

Justice Woodward, born in New York in 1774, a graduate of Columbia College in 1793, well-read in Greek and Latin, fluent in French, a former resident of Washington, D.C., and Virginia, and an intimate friend of President Jefferson, wasted little time in making his influence felt upon education in the new territory. In a resolution dated December 31, 1806 and presented to the Legislative Board, Woodward stated:

Whereas, the means of information, both with respect to the present and rising generation, are deplorably deficient in this Territory, and,

Whereas, it is one of the permanent articles of compact between the original states and the people of this Territory, that "religion, morality, and knowledge

¹ Woodford, Mr. Jefferson's Disciple, p. 154.

being necessary to good government, and the happiness of mankind, schools, and the means of education shall forever be encouraged," therefore

"Resolved, that it is expedient to provide by law for the establishment of one or more seminaries of learning in the Territory of Michigan." 1

His resolution was carried unanimously by the Board which indicated its disposition toward a public school system by recording: "It will advance the future prosperity of the country and the happiness of millions yet unborn. To effectuate so important a measure, every means in our power ought to be exerted; our labors ought never to cease until the object is accomplished." Strong words, these, but more than two years elapsed before the board finally passed an act on February 26, 1809 that empowered an agent of local general government, the overseers of the poor, to set up a school district, act as its trustees, and lay an annual tax of two to four dollars per child in school.

Michigan's first decade as a territory was a time of economic and political troubles capped by the war years of 1812-1815. Michigan was a major center of British conquest and occupation. Little could be done in setting up a school system or advancing education until these matters were settled.

¹Ibid., p. 155.

²Cited in Willis F. Dunbar, Michigan: A History of the Wolverine State (Grand Rapids, Erdmans, 1965), pp. 280-81.

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All was not lost, however, for Michigan education during this period. For seventeen months of the British occupation, March, 1818 until August, 1814, Judge Woodward lived in Washington, D.C. During this period he made numerous visits to Monticello to be with Jefferson. It appears that the thoughts of both men during this period centered, not on political matters of national and international import, but on systems of knowledge and education necessary to preserve the republican style of life so recently established in the new nation. Jefferson's letters to John Adams and others, written between 1810 and 1820, indicate Jefferson's renewed interest in his earlier educational plans. His major interest was the realization of his hopes for a public university in Virginia staffed with outstanding professors.

Woodward also gave greater attention to a lifelong interest in the area of developing a classification system for all knowledge. He had studied the earlier works of Bacon, Diderot, Comenius, and other pansophists and concluded that an American in America must develop, "an exact classification and correct nomenclature of all human

¹A. B. Woodward to Thomas Jefferson, Washington, April 21, 1814; Jefferson Papers (microfilm), Alderman Library, University of Virginia, reported in Woodford in Mr. Jefferson's Disciple, pp. 122-23.

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science." This view was expressed in a letter to Jefferson in 1813 and defended on the premise that only in America was there sufficient freedom of mind and inquiry to produce a definitive work. His comments to Jefferson indicate the relationship he saw between a free political system and a free intellectual system. "In science the world is literally a republic," Woodward related.

The mind intuitively rejects control and will universally assert its freedom. Truth and reason, virtue and impartiality, are the pillars which sustain scientific decisions. Science acknowledges no tyrant, and accredits no party.²

The months away from Michigan afforded Woodward the opportunity to work seriously on his system. His last, and major written work was published in 1816 under the title,

A System of Universal Science. Woodward saw his system as an essential device to help inquiring people comprehend all knowledge concisely and quickly, render it transmittible through schools, libraries and publications, and finally, in his words, "to investigate the principles on which a great national institution, [emphasis added], ought to be

A. B. Woodward to Thomas Jefferson, Georgetown, August 16, 1813, Jefferson Papers (microfilm), Alderman Library, University of Virginia. Reported in Woodford, Mr. Jefferson's Disciple, pp. 149-50.

² Ibid.

Augustus B. Woodward, A System of Universal
Science (Philadelphia: Edward Earle, Harrison Hall, Moses
Thomas, 1816) as cited in the bibliography of Frank B.
Woodford, Mr. Jefferson's Disciple, p. 206.

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constructed, embodying in one concurrent channel, all the learning and talents, all the erudition and genius, in the United States of America, for the honor of our particular nation, and the general benefit of the human race."

It seems possible that Woodward's original idea had been the establishment of a national university such as proposed earlier by both Washington and Jefferson. Whatever the case, Woodward now turned his attention to applying such a model at the state level with a proposal for "a Catholepistemiad or University of Michigania."

Some writers assert that Woodward's "great national institution," in principles and purpose, was modeled on the University of France, founded a decade earlier by Napoleon. Professor Hinsdale states:

Students of educational history know very well where to find the origin of the Catholepistemiad of Michigania. That original is the Imperial University that the first Napoleon gave to France in 1806-1808, which was not, in fact a University at all, but rather a highly centralized organization of state instruction, having its center in Paris.³

As reported in Woodford, Mr. Jefferson's Disciple, p. 18.

²A student of classical languages, Woodward chose the Greek as the purest and most precise vehicle for his nomenclature. "Encathol epistemia," or universal science, became the title of his major work and a year later, as a compound noun, became the name of Woodward's most lasting accomplishment, The Catholepistemiad, now the University of Michigan.

Burke A. Hinsdale, <u>History of the University of Michigan</u> (Ann Arbor: University of Michigan, 1906), p. 10.

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Andrew Ten Brook, in his American State Universities, states:

Governor Case, and Judge Woodward, as public men, and contemporary with the exciting revolutionary movement at the head of which Napoleon had placed himself, and doubtless in deepest sympathy with it, must have understood the system organized under the name of the University of France, and certainly this act looks very much like an attempt to copy it in Michigan. It makes the university include in itself all the primary and higher schools, and gives all legislative and executive control over them into the hands of its president and professors. 1

Woodward's proposal for a university was presented on August 26, 1817 to the Michigan Legislative Board and adopted. This was two years prior to the establishment of Jefferson's University of Virginia.

This Territorial Act established certain fundamental principles for Michigan education. The Catholepistemiad, was not, as Professor Dunbar points out, "a university in the usual sense of that term, but rather a complete system of education for the territory, under centralized control." Included in these principles, according to Dunbar, were:

(1) public education extending from the lowest grade through the college and university level; (2) tax support; (3) non-sectarian control; (4) low tuition in public institutions . . . [and (5)] centralized control [italics added]. 3

Andrew Ten Brook, American State Universities (Cincinnati: Robert Clarke & Co., 1875), p. 93.

Dunbar, Michigan: A History of the Wolverine State, p. 281.

³ Ibid.

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While the act had lasting theoretical value, and later influenced Michigan's constitutional provisions concerning control of its educational system, it had limited applicability to the 8,500 people in Michigan in 1817.

However, limited application of his grand design did not deter Justice Woodward and on September 24, 1817 he presided at the ceremonies for the laying of the corner stone of a two-story frame building in Detroit. It was the site of a primary school and classical academy for the next decade. The third and highest level of education, the university, did not become a reality until 1837.

Control of the university was vested in a governing body comprised of the professors and the president. The act establishing the university provided for a didactor, or professor, to head each of twelve departments with the president to serve as the didactor of catholepistemia, or universal science. These thirteen positions comprised the governing board and faculty of the entire educational system.

Limited funds and limited enrollments resulted in the employment of just two men to fill all thirteen positions. Reverend John Monteith, a Princeton graduate, and pastor of the Detroit Protestant church, was made president and didactor of six departments. Father Gabriel Richard, the able and popular parish priest for the Detroit area since 1798, was assigned the other six didactorships. This meant that control of the school system rested with

just two men. On April 30, 1821 the Territorial Board amended the original act, changed the classical title to the University of Michigan and invested its management in a twenty-one member board of trustees. Dunbar notes, however, that "the feature of the original act that placed the responsibility for schools in the hands of a central body rather than local communities was retained." 1

The close of stage one of Territorial status for Michigan under the governmental leadership of the five member Legislative Board was also the close of Judge Woodward's active participation in Michigan politics and education. For the first nineteen years of its history, Michigan was led by five officials who passed, executed, and judicially reviewed all laws. Of the five, Judge Woodward was the only one with continuous service. His ideas, official position, close association with President Jefferson, and personal acquaintance with both President Madison and President Monroe made him a most influential person in Michigan's early history. It was a most opportune period for a man determined to affect the future with his ideas and actions. Woodward made the most of the occasion and the lasting effects are twofold: the conception and subsequent establishment of the University of Michigan and the conception and plan for a unified system of Michigan

¹<u>Ibid</u>., p. 282.

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public education under control of a central education agency.

But the times and conditions were changing in Michigan. More immigrants arrived, largely from Western New York and New England. They were familiar with, and wanted, local control of government. Governor Cass, Michigan's second governor, supported this view and urged Congress to grant permission to change the legislative functions of government from the appointed Legislative Board to a Legislative Council comprised of men nominated by the people of the Territory and appointed by the President according to provisions under the Northwest Ordinance. This was approved by Congress in 1823, and a nine-member Council, enlarged to thirteen in 1827, served as Michigan's legislative body until statehood in 1837.

This Territorial Council passed two educational acts in 1827 and 1829 that shifted significantly the control of education in Michigan from the University to local governments. The Act of 1829 was modeled after the famous Massachusetts Law of 1647. Its major innovation was to place responsibility for primary schools at the township rather than state level. Townships of fifty or more families were provided a school teacher for six months to teach the basics, including French, with permission to levy taxes.

¹ Territory of Michigan, Laws, II (1827), pp. 472-77.

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"Grammar schools" were to be established in townships with more than two hundred families with a teacher capable of teaching Latin. However, townships, upon a favorable vote of two-thirds of its electors, could ignore these requirements. A township board of not more than five commissioners were to operate the schools. The 1829 school law permitted townships to divide into smaller districts, each with their local boards. Schools were to be financed by fees except for the poor. The law contained a provision for establishing an Office of Superintendent of Common Schools, the first in the West. Dunbar states that,

The laws of 1827 and 1829, as well as another passed in 1833 were not rigidly enforced, and most of the actual teaching during the territorial period was done in private schools opened for various length of time and then abandoned. Most of these were elementary schools.

Thus, on the eve of statehood, Michigan had on its lawbooks a comprehensive plan for a centrally controlled state system of public education through a special government agency, the University. This system was modified by the pattern of local control at the elementary and secondary level reflecting the experiences of New England immigrants and patterns of education. Such was the state of education in Michigan at the close of its territorial status.

Dunbar, Michigan: A History of the Wolverine State, p. 283.

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The Northwest Ordinance stated that, " . . . whenever any of the said states shall have sixty thousand free inhabitants therein, such states . . . shall have liberty to form a permanent constitution and state government."

While there were less than ten thousand people in the Michigan Territory in 1817, the 1830 census showed 31,639 inhabitants. The completion of the Erie Canal in 1825 had opened an inexpensive and moderately easy route to western lands. Government land prices remained near the \$1.25 per acre standard making Michigan the nearest source of cheap land available to Easterners for settlement.

Michigan, in the thirties, experienced a larger increase in population than any other state west of the Appalachians. As the population increased so did the clamor for admission to statehood. When Congress ignored a request of the Territorial Council in 1833 to start procedures for statehood, twenty-one year old Acting Governor Stevens T. Mason convened a special session of the Territorial Council and requested them to authorize a special census and a constitutional convention. Both were approved and the census reported more than ninety thousand people in the territory, triple the number three years earlier. A convention was called, delegates elected, and Michigan's first Constitutional Convention convened at Detroit on May 11, 1835 with ninety-one delegates in attendance.

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One of the delegates to this convention, Isaac

Crary, had come to Michigan from the East during the immigration of the early thirties. He was preceded by John O. Pierce, a minister from New Hampshire, who had been sent to Marshall, Michigan as a missionary under the American Home Mission Society in 1831. In the spring of 1832 young Crary, a lawyer from Connecticut, came to Marshall and boarded with the Pierces in their double-log house. Mrs. Pierce died in the chloera epidemic that summer but Crary continued to live at the Pierce house and the two Easterners formed a friendship that continued throughout the years.

The topic of statehood was of keen interest to all and Pierce and Crary often discussed the type of government Michigan should set up. They were particularly interested in the relationships that education should have to the new government of the state. Now that Crary had been elected as a delegate to the Constitutional Convention, the time had come for their ideas to be translated into legal action.

At this strategic moment a fortuitous event occurred that significantly influenced Michigan education. Reverend Pierce, in the months just preceeding the Constitutional Convention, happened on to a copy of a book by the Frenchman Victor Cousin. The book had just been translated into English and had reached, of all places, Marshall, Michigan. Cousin's book, A Report on the Condition of Public

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Instruction in Germany, and Particularly Prussia, had been submitted to the French government in 1831. The book affected, as it turns out, not only the French system of education but that of Michigan. Later, through Horace Mann, Cousin's book influenced Massachusetts' system of education. In his summary of the Report Dain states:

In Prussia, the Report revealed, the state exercised complete jurisdiction over education. Schools were established, supported, and administered by central authority; the state supervised the training of teachers and held sole right of certification; school attendance was compulsory. At the head of the system was a minister of state possessing strong executive authority.1

The effect of this report on Pierce and Crary and the subsequent organization of a system of education in Michigan comes from comments of Pierce himself in later years.

About this time Cousin's report of the Prussian system . . . came into my hands, and it was read with much interest. Sitting one pleasant afternoon upon a log, on a hill north of where the court house at Marshall now stands, General Crary and myself discussed for a long time the fundamental principles which were deemed important for the convention to adopt in laying the foundations of our State. The subject of education was a theme of special interest. It was agreed, if possible, that it would make a distinct branch of government, and that the constitution ought to provide for an officer who should have this whole matter in charge and thus keep its importance perpetually before the public mind.²

¹ Floyd R. Dain, Education in the Wilderness (Lansing, Mich.: Michigan Historical Commission, 1968), p. 204.

²<u>Ibid.</u>, p. 205.

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Convention that convened in Detroit, May 11, 1935. Here, during the first week, he proposed a standing committee on education which was confirmed and Crary was named its chairman. The committee, within three weeks from its formation, submitted a report to the Convention that was adopted. This report became the education article, Article V of the new Constitution, and contained five sections.

These sections contained the fundamental principles for the founding of a state system of education in Michigan. A brief analysis of the Article follows: 1

Section 1 succinctly stated the key ideas that
Pierce and Crary were determined should characterize
Michigan education. It provided for the government of
education as a separate office of the general state
government and provided for an educational officer to oversee its successful functioning. This provision aptly
illustrates the relationship between general state governance and the special agencies of educational governance and
pinpoints a key period of change in Michigan. The Section
read:

The Governor shall nominate, and by and with the advice and consent of the Legislature, in joint vote, shall appoint a Superintendent of Public Instruction, who

¹Michigan, Constitution (1835), Article V.

shall hold his office for two years, and whose duties shall be prescribed by law.

The provisions of the Section proved to be of historical significance to more than Michigan education. It was the first instance within the United States in which the Office of Superintendent of Public Instruction as a state central education agency was established by the constitution of the state. Similar offices had been established by statute in other states. 1 The Michigan Territorial Law of 1829 had approved a Superintendent of Common Schools to oversee school lands although the office was never filled. No state however, had given the office the dignity and permanence of constitutional status. Numerous writers have noted or confirmed this historical milestone for state systems of education. I. N. Edwards, long an authority on the legal basis of education, affirms that: "Michigan in its constitution of 1835 was the first state to make a provision for the Office of Superintendent of Public Instruction." 2 Cubberley notes that: "The first state to maintain continuously such a state official was Michigan, which created the office of superintendent of common schools in 1829 . . . the title was changed to

New York was the first state to appoint a superintendent by law, in 1812. The office was abolished from 1821 until 1854. Elwood P. Cubberley, <u>Public School Administration</u> (Boston: Houghton Mifflin Company, 1929), p. 33.

²I. N. Edwards, <u>Constitutional Basis of Public</u> School Administration, p. 75, as quoted by J. B. Edmonson in <u>The Legal and Constitutional Basis of a State School</u> <u>System</u> (Bloomington, Ill.: <u>Public School Publishing Co.</u>, 1926), p. 3.

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'Superintendent of public instruction,' and as such has continued to the present time."

The recent volume on Education in the States, under the section on Michigan, notes that: "Michigan became the first commonwealth to have an independent department of education with its own administrator—a state superintendent of public instruction."

The significance of Section 1 is summarized by Dain:

Crary and the members of his committee . . . could foresee that constitutional provision for the office would confer upon it prestige, authority, and permanency that would be wanting in a similar office created by statue. By providing for the establishment of this office in the first section of the article, Michigan became the first state of the Union to accept the principle of state control over education.³

Dunbar supports this position by stating that "By giving constitutional status to the office of superintendent of public instruction, the constitution-makers of 1835 placed it beyond the power of the legislature to destroy."

The first Section of the Education Article provided a firm legal basis for the powers, organization, and

¹Ellwood P. Cubberley, <u>Public School Administration</u> (Boston: Houghton Mifflin Company, 1922), p. 28.

²Jim B. Pearson and Edgar Fuller, eds., <u>Education</u> in the States: <u>Historical Development and Outlook</u> (Washington, D.C.: National Education Association, 1969), p. 596.

³Dain, <u>Education in the Wilderness</u>, p. 207.

⁴Dunbar, Michigan, pp. 317-18.

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administration of a state system of education in Michigan. Sections 2, 3, and 5 were crucial for the realization of such a system. Crary and other members of the Convention realized fully that if the state was to have any real control over education it must have access to some way of financing a system of schools. The earlier attempts of Judge Woodward and the Legislative Board in 1817, and the later laws of the Legislative Council of 1827 and 1829 to establish or alter a state system of education, met with limited success or failure largely because of lack of funds to implement the plans. The framers of the constitution saw that control of the sale of, and the management of the proceeds from, federal land grants was the key to fiscal control of education. 1 But state control of funds from federal lands required authority from Congress to so utilize these funds. Sections 2 and 5 were worded so as to gain this authority from Congress.

Section 2 of Article V made provision for the funding, at least in part, of the elementary schools of Michigan. The section reads as follows:

Section 2: The Legislature shall encourage, by all suitable means, the promotion of intellectual, scientific, and agricultural improvement. The proceeds of all lands that have been or hereafter may be granted by the United States to this State for the

Dain, Education in the Wilderness, pp. 207-25, develops and traces in detail the developments that resulted in state control of the funds accruing from federal lands. The writer has drawn heavily from this source for this discussion of Sections 2 and 5 of the Michigan Constitution of 1935.

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of content support of schools, which shall hereafter be sold or disposed of, shall be and remain a perpetual fund; the interest of which, together with the rents of all such unsold lands, shall be inviolably appropriated to the support of the schools throughout the state.

The crucial wording of this section was "lands . . . granted by the United States to this State [emphasis added]." The Land Ordinance of 1785 which set aside Section 16 of each township specified that the funds were to go for public schools in that township. Ohio, Indiana, and Illinois had been admitted to statehood with lands, or proceeds from them, going directly to the townships. This encouraged local support and control of education but proved to be an ineffective way of getting a maximum return from the sale of such lands. Michigan chose to attempt another route in order to keep a measure of effective control of education with the central education agencies of the state.

Section 3 of the Education Article made it mandatory for the legislature to provide a public school system. It read:

The Legislature shall provide for a system of common schools by which school shall be kept up and support in each school district at least three months in every year; and any school district neglecting to keep up and support such a school may be deprived of its equal proportion of the interest of the public fund.

The source of state power was expressed in the last clause of this section. With the monies from the federal lands coming to the state instead of the township the Superintendent of Public Instruction would have a practical and

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effective means of encouraging school districts to establish and maintain common schools for the required three month period. It was the lack of any state support that had caused earlier territorial laws for common schools to be ignored or inadequately fulfilled. As Dain notes, this section "provided Crary and his colleagues with a strong device for winning acceptance and support for the principle of public education under state authority." 1

seen both the possibility of a school system funded by federal land grants and assumed that such a system would not occur without state supervision or control. The School Act of 1829 had created the Office of Superintendent of Common Schools for the express purpose of overseeing the use of such lands. However, sale of such lands was not possible until Michigan became a state, so the Office was never filled. Now that statehood was possible, the proper wording of the Constitution submitted for Congress's approval was crucial to a functional state system of education.

The phase, "to this state," was also central in Section 5 of the proposed Constitution. This section provided for the university and its "branches," or secondary schools. The section stated:

¹Ibid., p. 209.

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The Legislature shall take measures for the protection, improvement, or other disposition of such lands as have been or may hereafter be reserved or granted by the United States to this state [italics added] for the support of a University; and the funds accruing from the rents of sale of such lands, or from any other source for the purpose aforesaid, shall be and remain a permanent fund for the support of said University, with such branches as the public convenience may hereafter demand for the promotion of literature, the arts and sciences, and as may be authorized by the terms as soon as may be, to provide effectual means for the improvement and permanent security of the funds of said University.

In 1821 the Catholepistemiad was reorganized as the University of Michigan and placed under the control of a lay board of trustees. It was this board that had control of the lands granted to Michigan in 1826. It was these lands that Section 5 of the education article of the proposed constitution wanted Congress to grant "to the state." Dain develops the reasoning behind this phrase:

. . . state control of education could become effective only if state funds were available to support it. By gaining possession of the reserved section-sixteen school lands and by establishing a perpetual school fund, the state would have funds to support education on the first level. To provide support for secondary schools and a university, the state must acquire possession and control of those lands previously granted by Congress for the promotion of higher education in the territory.

Pierce and Crary saw that if the state acquired possession of the university lands, the returns from land sales could provide the state with an income for the support of secondary schools and the university. 1

Congress in 1804 had made provisions for granting at least one, and up to two, townships of land for the

^{1 &}lt;u>Ibid</u>., pp. 210-11.

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support of a "seminary of learning" in each state formed from the Northwest Territory. In 1826 Michigan received an additional seventy-two sections of "salt-spring lands" which could be used for education. It was these lands that Section 5 directed "to the State."

Another significant issue was related to these lands and the University. This issue involved the future of <u>public</u> higher education in Michigan. In an era characterized by strong support for private education, generally controlled by religious groups, federal lands supplied the financial base for public institutions of higher education. Professor Dunbar asserts that:

These liberal [land] endowments made possible the establishment of state universities in the Old North-Without them these institutions might never have been established, and in any case, their founding would certainly have been delayed for many years. State universities had not been successful in the East, where religious groups were regaining control of colleges and universities. The Protestant denominations, fired by the Great Revival, were sending hundreds of zealous missionaries into the West, eager to found colleges under denominational auspices. In no state in the Old Northwest was any considerable financial assistance given to a state university from a state treasury until well after the middle of the nineteenth century. safe to say that, for at least a quarter of a century, the federal land grants alone kept alive in the states of the Old Northwest the idea of state-controlled institutions of higher learning.1

Crary continued to exert unusual personal influence on Michigan's educational system following the work of the

Dunbar, The Michigan Record in Higher Education, p. 48.

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Constitutional Convention. Crary was elected as the Michigan representative to Congress in October, 1835 with the initial responsibility of shepherding the proposed Constitution successfully through Congress. Despite the two year delay in Congressional approval caused by the slavery-free state issue and the Ohio-Michigan border war, Crary skillfully carried out his task. In no area was this skill better demonstrated than in the matter of making sure that federal lands went to the state rather than to the townships. The crucial test was the June day in 1836 when Congress approved two propositions, one each for Arkansas and Michigan. The Arkansas proposition read as follows:

That Section numbered sixteen in every township, and where such section has been sold, or otherwise disposed of, other lands equivalent thereto, and as contiguous as may be, shall be granted to the State for the use of the inhabitants of such township [emphasis added] for the use of schools.4

¹Michigan's application for statehood was the first since the Missouri Compromise of 1820 which admitted Missouri as a slave state and Maine as a free state. Michigan's application was delayed until Arkansas, a slave state, applied in 1836.

The boundary dispute between Michigan and Ohio over the "Toledo strip" delayed final approval of state-hood until 1837. Ohio, wanting a lakeport at Toledo, received the Toledo strip and Michigan the Upper Peninsula.

³Dain traces this development in detail, pp. 211-21.

Quoted from Dain, p. 220. Original source U.S. Statutes at Large, V, pp. 58-59.

The Michigan proposition omitted the key phrase "for the use of the inhabitants of such township." This was the crucial difference. Dian relates that "Crary later told John Pierce that if Congress had been aware of the change it would have insisted upon the customary form for the ordinance, and the reserved school lands in Michigan would have been set aside for the use of townships." 1

With the resources assured to provide a common school system Crary turned his attention to securing the university lands for the state. Dain reports that, "In like manner and with equal success Crary tailored the proposition relating to university lands to convey them to the state of Michigan for the support of the University of Michigan alone, rather than for all schools of higher learning." 2

In five brief sections, the constitutional foundations for Michigan education had been drafted by Crary and his committee, adopted by the Constitutional Convention, and approved by the Congress of the United States. This charter incorporated the essence of several key concepts and acts of Michigan's officials and citizens during territorial days, the most important being a state system of education culminating with the University as the apex. The desire of Pierce and Crary to create a separate

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²Ibid., pp. 220-21.

department of state government with its own executive officer was assured. Professor Dunbar summarizes his view of the Constitution:

Michigan's constitution of 1835 was the first to provide for the appointment of a superintendent of public instruction. The framers apparently intended that he should supervise not only the primary schools, but also the university, the academies, and schools of other kinds. . . . Perhaps the most significant fact is that it provided for not just common schools or a university, but also for an entire system of public education.

The chief characteristics of this system were centralized control, inclusive and symmetrical design, and the assumption that education is a function of the state.1

John D. Pierce: The First Superintendent

While Isaac Crary was busy in Washington assuring Congressional approval of the Constitution, John Pierce was becoming the dominant figure in education in Michigan. He was appointed to the position of Superintendent of Public Instruction by Governor Mason and confirmed unanimously by a joint session of the legislature on July 26, 1836. The same day the Governor signed into law a bill that defined the duties of the Superintendent. This fulfilled the mandate of Section 1 of the education article which specified that the Superintendent's "duties shall be prescribed by law." This law required the Superintendent to:

(1) inventory, determine the condition of, and locate all lands reserved for education in the state and . . .

Dunbar, The Michigan Record in Higher Education, pp. 55-56.

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submit to the legislature in writing his view regarding the disposition of these lands; (2) formulate a plan for the "organization and establishment of common schools, and a university and its branches"; (3) require of . . . officers . . . of school lands, that they report to him the location, condition, and estimated value of the lands under their charge; (4) require directors of school districts to submit to him reports . . .; (5) consolidate and condense the information received and . . . submit it to the legislature . . .; (6) take charge of, with full authority . . ., all lands which had been or might be reserved for educational use and for which no commissioners or trustees had been appointed; (7) receive and retain . . . all funds accruing to the state in payment of fines for infractions of the penal laws, or for exemptions from military service. 1

Pierce took his task seriously, and in preparation for his first report to the legislature, took a two months' journey east. Pierce stated that his purpose

was information in regard to schools, from the primary school to the university; their organization, management, and support. The whole subject had been committed to my hands. Besides, I had over a million acres of university and school lands to look after. Such, then, was the responsibility and such the interests involved, interests not only for the then present but for the future. A failure, or even a bad beginning, must necessarily affect the State in its educational interests for a long time.²

In the East Pierce visited political and educational leaders in Albany and Boston and university leaders at Brown and Yale. Back home in Marshall Pierce wrote his first report. The heart of the report was his plan for a system of education in Michigan. The plan had six sections.

Dain, Education in the Wilderness, pp. 223-25.

²<u>Ibid.</u>, p. 226.

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The first set forth a proposal for the establishment, administration, and support of primary schools; the second called for the founding and financing of libraries in each school district. The third offered detailed plans for the construction of schoolhouses; the fourth suggested the establishment of county academies or branches of the university. The fifth provided for the organization and the support of the university, and the sixth, which specified the duties and responsibilities of the superintendent of public instruction, also outlined a proposal for the disposal of the school lands and the establishment of a permanent school fund and a university fund.

His ideas were well received by the legislature and two months later three educational Acts were approved. The first provided for the organization and support of the primary school, the second provided for the organization and government of the University of Michigan, while the third provided for the disposition of the university and primary school lands. The primary school act became effective April 1, 1837 and under Pierce's direction was incorporated with previously approved laws into a school code and became a part of the Revised Statutes of 1838. The university act created a Board of Regents as the governing board of the University of Michigan and its branches.

By 1840 the constitutional and legal foundations of Michigan's system of education had been established. The next century and a quarter would modify but not basically change this system. Education was the responsibility of

¹Ibid., p. 238.

special, not general, state government. The Office of Superintendent of Public Instruction was created as a central state education agency empowered by the constitution and legislation for the state's system of education. Three levels of education were to be a part of this system; the university, its branches, and the primary schools. The university was to be governed by a board of regents which would be a second state agency of control for secondary and higher education. The primary schools were the responsibility of the superintendent's office, the office John Pierce filled with distinction from 1836-1841. The theories of men such as Judge Woodward and Victor Cousin had become constitutional and legal realities by the actions of Crary, Pierce, and the legislators of Michigan.

Thus the 1835 Constitution, and the legislation implementing the education article, moved Michigan from general to special government for education and created two of the three central state agencies that have helped shape Michigan's state system of education. The third agency, the State Board of Education, was the last to emerge.

The Birth of the State Board of Education

The State Board of Education in Michigan had an inauspicious beginning. Territorial laws and the first Constitution were silent concerning any such agency. The concern of the early state political leaders was for an executive officer to carry out provisions and policies

established by the constituion and legislation. This was an executive function for a superintendent, not a policy-making board.

Separate boards of control had been established in other states to govern higher education. Michigan had followed this pattern in establishing a governing board for the University. New York was the first state after the Revolutionary War to create such a board. In 1784 the Board of Regents of the University of the State of New York was established to oversee Kings College (Columbia). Within three years, "the state authorized the Board of Regents to charter new colleges and gave the board broad powers of supervision over them. At the same time, it was charged with the general supervision of all academies."2 It had no responsibilities for elementary education prior to 1894. Cubberley notes that: "Two other states [North Carolina in 1825 and Vermont in 1827] provided for a rudimentary form of state educational board" but both boards were abolished by 1835. 4 He states that in 1837 "the State of Massachusetts created the first real state board of

Cubberley, Public School Administration, p. 30.

Pearson and Fuller, <u>Historical Development</u>., p. 86 p. 863.

³Ibid., pp. 863-65.

⁴Cubberley, Public School Administration, p. 30.

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education in the modern sense of the term." This board was authorized to appoint a secretary and it named Horace Mann to this position.

Michigan's board of education, created by the legislature in March, 1849, was not a state central agency in the modern sense of the term. It was a board authorized to govern the Michigan State Normal School. The creation of the new normal school in 1849 was a response to the national and state interest in improving education through the improvement of the training of teachers. The Board of Education was a legislative response to the conflicting pressures and opinions within the state as to who should carry out this emerging function.

John Pierce, in his first report to the legislature, had recommended that it was the duty of the Board of Regents to establish such branches as authorized by the legislature. Each branch was to contain a department of education. The Legislative Act of March 18, 1837 approved these recommendations and the education of teachers became the responsibility of the Board of Regents of the University of Michigan. Financial support was to come from the University Land Fund. Two events prevented the effective development of the nine branches authorized. A depression,

¹ Ibid.

Dunbar, The Michigan Record in Higher Education, p. 57.

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the Panic of 1837, thwarted the high hopes of Pierce and others that the sale of government lands would adequately finance both the university and its branches, or secondary schools. The second event was a ruling by the Michigan Supreme Court on the constitutionality of the University operating branches with federal land funds. Dunbar summarizes this development:

From the first there had been some question of the legality of using the income from the federal grant which had been made for the establishment of a university, to finance a number of small institutions offering, in the main, work below the college level. The regents [including Isaac Crary] at first salved their consciences in this matter by reference to the fact that Congress had admitted Michigan into the Union as a state under the Constitution of 1835, which provided for university branches. But in 1841 the Supreme Court of Michigan decided that the operation of the University of Michigan branch in Detroit was illegal, "since by the contracts with Congress and the village of Ann Arbor, the University was to be one institution in one place."²

By 1846 all university financial assistance to the branches was stopped. Several significant developments resulted from these events. The Board of Regents concentrated their funds and attention on the development of a college level institution at Ann Arbor. This meant that secondary education was now no longer the province of the University. Elementary education was under the State Superintendent and financed by the Primary Education Fund, creating a vacuum at the secondary level.

¹<u>Ibid.</u>, pp. 66-67. ²<u>Ibid</u>.

V1.1 of. e.-**S**C ca âο s The need was apparent for new institutions to replace the education and agricultural "branches." The Michigan State Normal School and its governing State Board of Education were the legislature's answers to these emerging functions.

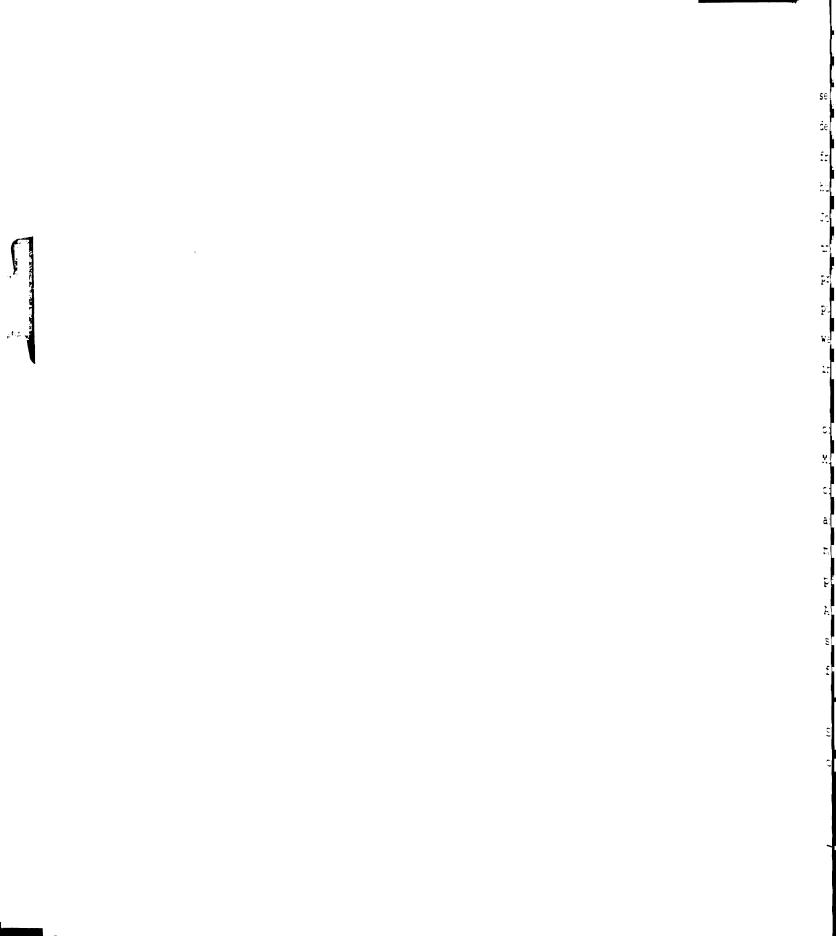
The legislative act of 1849 established the normal school independent of the university. The Board of Education, consisting of five members, was responsible for its operation. Three members were to be appointed by the governor and confirmed by the Senate. The Superintendent of Public Instruction and the Lieutenant Governor, as ex officio members, completed the board. The superintendent served as secretary of the board. The board was empowered to select a site and construct buildings for the new school. 1

Constitutional Status for the State Board

While the legislature was creating a normal school and its board, the citizens of Michigan were calling their second constitutional convention. The spirit and practices of Jacksonian democracy now prevailed. A growing distrust of central state government prompted Michigan citizens to want greater say in the selection of state officials.² The

¹Ibid., p. 85.

²Most major state officials were elected. This included, for education, the superintendent of public instruction, the regents of the university, and the state board of education.



second constitutional convention was a response to this development in democracy. The convention met in Lansing from June 3 through August 15, 1850. Numbered among the hundred delegates were the state's founding educators, John D. Pierce and Isaac Crary. Pierce was a member, though not chairman, of the education committee. The primary educational issue before the convention was the public funding of primary schools. The second issue debated was the appointment of board members and the state superintendent.

The Education Article of the Michigan Constitution of 1850 reflected the twin desires of the citizens of Michigan to have a greater hand in the selection of their officials and to restrict the freedom of the legislature and governor in governing the state. This resulted in a more detailed constitution incorporating items and decisions previously left to the governing branches of the government. Article XIII of the new constitution contained twelve sections related to education, seven sections more than the first constitution. 1

The most significant addition to this article was Section 9 relating to the establishment of a State Board of Education. The section read as follows:

There shall be elected at the general election in the year one thousand eight hundred and fifty-two, three members of a State board of education; one for two

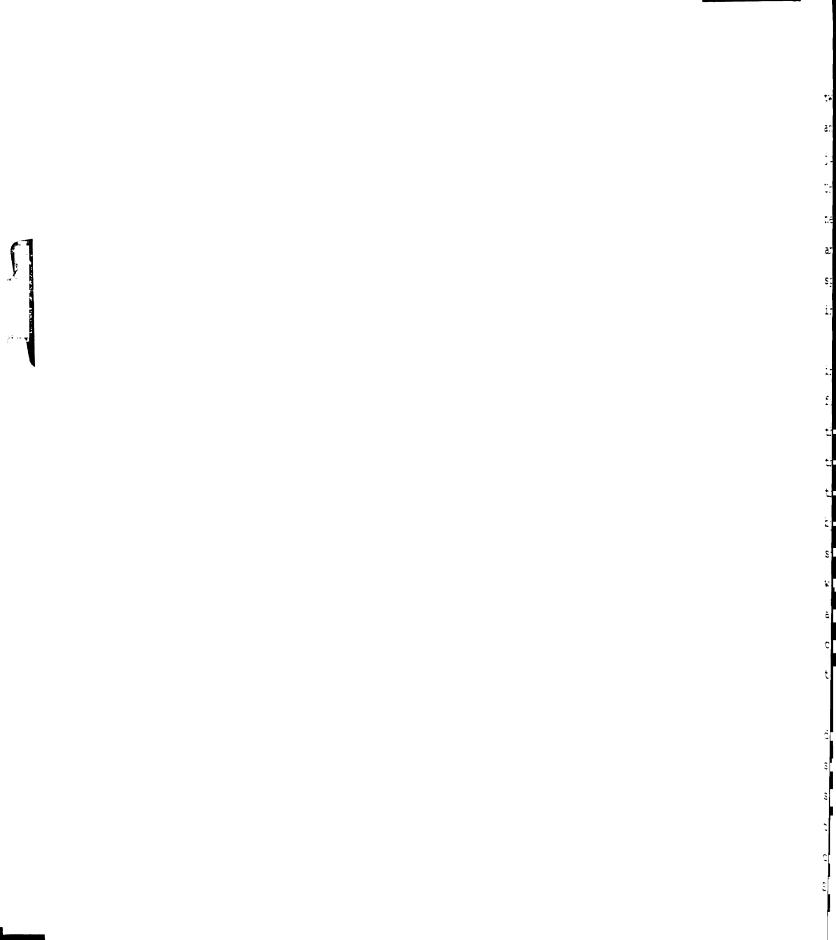
¹Michigan, Constitution (1850), Article XIII.

S: C; e years, one for four years, and one for six years; and at each succeeding bienniel election there shall be elected one member of such board, who shall hold his office for six years. The Superintendent of Public Instruction shall be ex officio a member and secretary of such board. The board shall have the general supervision of the State Normal School, and their duties shall be prescribed by law. 1

This section incorporated the provisions for the State Board contained in the legislative act of 1849. Two changes were a reduction in membership from five to four by excluding the Lieutenant Governor as an ex officio member, and the popular election of members. Board members were to be "elected at the general election" rather than be appointed by the governor. Six-year terms were established for the three members, permitting the election of one board member in each biennial election starting in 1854. The superintendent held a two-year term. The constitutional powers of the board were limited and clear. "The board shall have the general supervision of the State Normal School." The board's functions or duties were to "be prescribed by law."

The origin of the State Board of Education in Michigan stemmed from a practical need for an adequate supply of trained teachers for the state's primary schools. The creation of the Board, first by a legislative act in 1849, and then by the 1850 constitutional convention filled an organizational void that existed between the state's

The Michigan Constitution of 1850, Section 9.



two major educational agencies, the University of Michigan and the Superintendent of Public Instruction. While jurisdiction for training teachers was claimed by both the University and the Superintendent of Public Instruction, neither agency had sufficient funds to effectively organize and carry out this function. The result was a third special agency for governance of education incorporated into the constitution of the state.

The incorporation of the State Board of Education into the constitution, even with its limited powers and functions, was a significant development. The inclusion of the State Board of Education in the constitution insured that the continuation of the board would not be subject to the pleasure of the legislature. It could not be abolished by legislative act. This permanency provided by the constitution proved to be significant in a second important way. It made the board a readily available agency to assume additional functions at a later date which were not clearly the province of either the Office of the Superintendent or of the University.

The constitution encouraged this broader area of development through the phrase "its duties shall be prescribed by law." With the functions of the board largely subject to the will of the legislature, legislators tended to view it as a ready agency for handling certain educational functions as they appeared before the legislature. Subsequent legislative acts concerning the State Board of

Education illustrated this more fully. Another area of significance encouraged by the constitutional status of the State Board of Education related to the pattern of higher education that developed in Michigan. By empowering the State Board to have the general supervision of the State Normal School the Constitution of 1850 created a separate board of special governance for the normal school. This created two separate boards, one for each institution of higher education, the current pattern in Michigan education.

The new State Board of Education lost little time in acting on its one function, the establishment of a state normal school. Bids for the school were received by the Board from five cities. Ypsilante was selected and the first building was erected and dedicated on October 5, 1852 "with the two architects of Michigan's school system-John D. Pierce and Isaac E. Crary--present."

The State Board quickly enlarged its domain by winning the legislative battle with the University of Michigan over what board should control the new agricultural school authorized by the 1850 constitution. "The Agricultural College of the State of Michigan" became a reality on February 12, 1855 and was placed under the control of

Dunbar, The Michigar Record in Higher Education, pp. 85-86.

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the State Board of Education. ¹ In 1857 classes began, but by 1861 dissatisfaction with the policies of the State Board and the views of State Superintendent John Gregory, who favored a strictly technical course with no non-technical subjects, caused the legislature to transfer control of the college to the state board of agriculture. ²

However, the rapid increase in population in Michigan during the last half of the nineteenth century coupled with the increased demand for public education made the State Board's original function, the training of teachers, a growing responsibility during this period. From a population of 397,654 in 1850, the total number of Michigan residents increased by approximately 400,000 for each of the next six decenniums. In 1910, just after the adoption of the 1908 Constitution, the state's population was 2,810,173 residents.

These decades of rapid population increase also were accompanied by increased powers for the State Board of Education in the training and certification of teachers. The 1853 legislature authorized "the board of instruction of the state normal school . . . to grant a certificate, signed by the state superintendent of public instruction, showing the holder had completed twenty-two weeks of

¹Ibid., p. 92. ²Ibid., p. 95.

Bureau of Business and Economic Research, Michigan Statistical Abstract, 7th ed. (East Lansing: Michigan State University, 1968), p. 7.

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instruction and possessed the 'learning and other qualifications necessary to teach a good common school.'" In 1879 the State Board was empowered to grant certificates good for ten years in any school district. A second law, passed in 1889, gave the Board the power to grant life certificates.

The action of the legislature in 1889 set the basic statutory pattern for the State Board of Education from that date until 1964. Act No. 194, entitled "An Act to revise and consolidate the laws relative to the state board of education" made the State Board a "body politic and corporate" empowered to carry out all business and legal matters and transactions for the state normal school. The Michigan Constitution of 1850 did not grant the State Board "corporate status" as it did the Regents of the University of Michigan. Corporate status for the State Board was given "by law" in 1889 and has continued so to the present time. Statutory, rather than constitutional, corporate status meant that the State Board was less autonomous from actions of the state legislature than the Regents of the

Charles R. Starring and James O. Knauss, The Michigan Search for Educational Standards (Lansing: The Michigan Historical Commission, 1969), p. 23.

²Michigan, <u>Public Acts</u> (1879) No. 231.

³Michigan, <u>Public Acts</u> (1889) No. 194.

⁴Michigan, Public Acts (1889) No. 194, Section 1.

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University of Michigan. Section 10 of the Act required the State Board to

make to the legislature, at every regular session thereof, a report setting forth First, The work done by the school . . .; Second, The needs and requirements of the school; Third, A report of the principal of the school, concerning . . . matters . . . and recommendations . . .; And Fourth, A financial statement, showing in detail the moneys received and expended, with an itemized statement of receipts and expenditures, as near as may be. 1

The majority of the twenty-one sections of the Act covered specific duties and powers of the Board. These included continuation of the normal school and courses of study, the examination and approval of all public textbooks dealing with "the nature and effects of alcholic drinks and narcotics," the direction and control of the normal school interest fund, the receipt of gifts and bequests, and the duty to "conduct research studies relating to the general school problems of the public schools of the state." 3

The greatest increase in State Board of Education powers came, however, with the opening of three additional "normal schools." Each of these was placed "by law" under the control of the State Board by the legislature. The first of these institutions was Central Michigan Normal School, located at Mt. Pleasant. This had been opened in 1892 as a private school but was accepted by the legislature

¹ Ibid., Section 10. 2 Ibid., Section 16.

³ Ibid., Section 20.

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as a public normal school in 1895. The second new school was Northern Michigan Normal School, established in 1899 at Marquette in the Upper Peninsula, by an act of the legislature. In 1903 the State Board was authorized by the legislature to open a fourth normal school. The Board, after fourteen ballots, finally agreed on Kalamazoo as the site and Western Michigan Normal School opened in the summer of 1904.

By the turn of the century the State Board of Education had become the central state agency for the training and certification of public school teachers in Michigan.

These powers and functions of the State Board had been specifically delegated by the legislature in an Act passed in 1903. The Act authorized the Board to carry out two specific tasks. The first of these tasks was to "prescribe the courses of study for students, to grant such diplomas and degrees and issue such licenses and certificates to graduates of the several normal schools of the state as said state board of education shall determine." In

¹ Starring and Knauss, The Michigan Search for Educational Standards., pp. 118-19.

² Ibid.

³<u>Ibid.</u>, p. 158. Grand Rapids and Muskegon were the other sites considered.

⁴Michigan, Public Acts (1903).

⁵ Ibid.

essence, this provision extended the powers and duties granted the Board in 1889 for the "state normal school" to the three new normal schools.

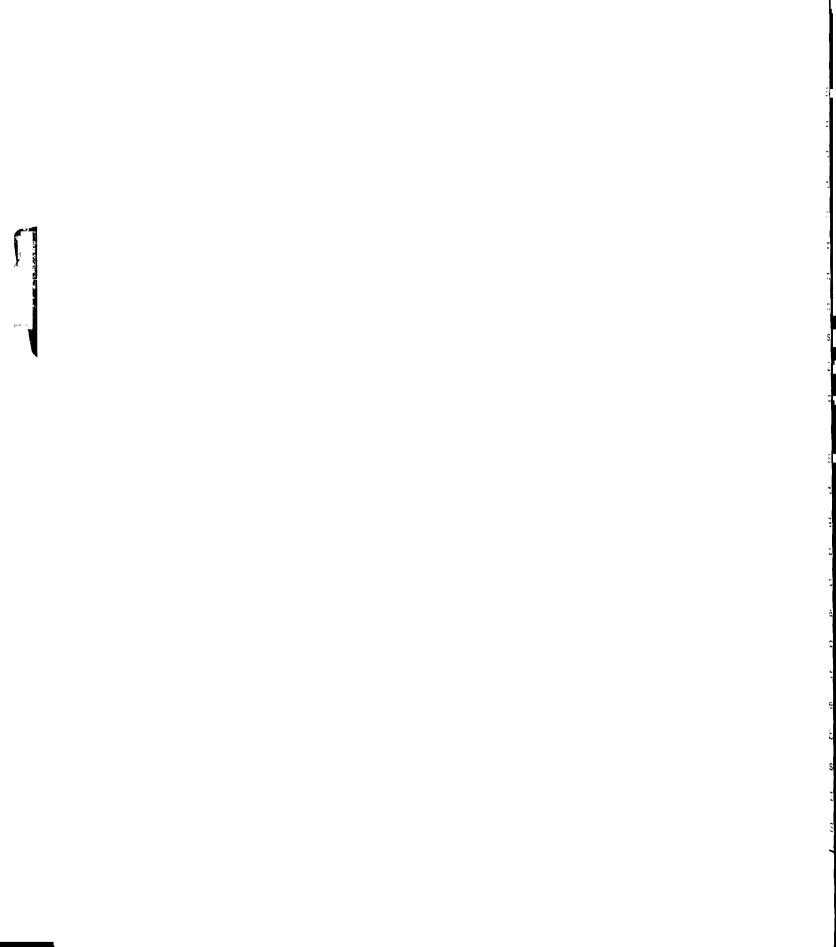
The second power granted to the Board in the 1903

Act was an effort by the legislature to shift the function of certification to one state central agency of educational governance. The law stated that "the state board of education is hereby granted authority and required to prescribe the requirements for and issue all licenses and certificates for teachers in the public schools of the state." Prior to this time the right to certify teachers had been given, at different times, to other education agencies including the state superintendent, county superintendents, and even commissioners of local districts. The powers granted the State Board under this act of the legislature were eventually to involve the State Board in the approval of teacher education programs of all Michigan public institutions of higher education and most private four-year colleges.

However, at the time of the adoption of Michigan's third constitution in 1908, the State Board of Education had approved three courses of study leading to certification. Each of the normal schools offered the three approved programs: "the rural-school course, the graded-school course, and the limited life-certificate course." 2

¹ Ibid.

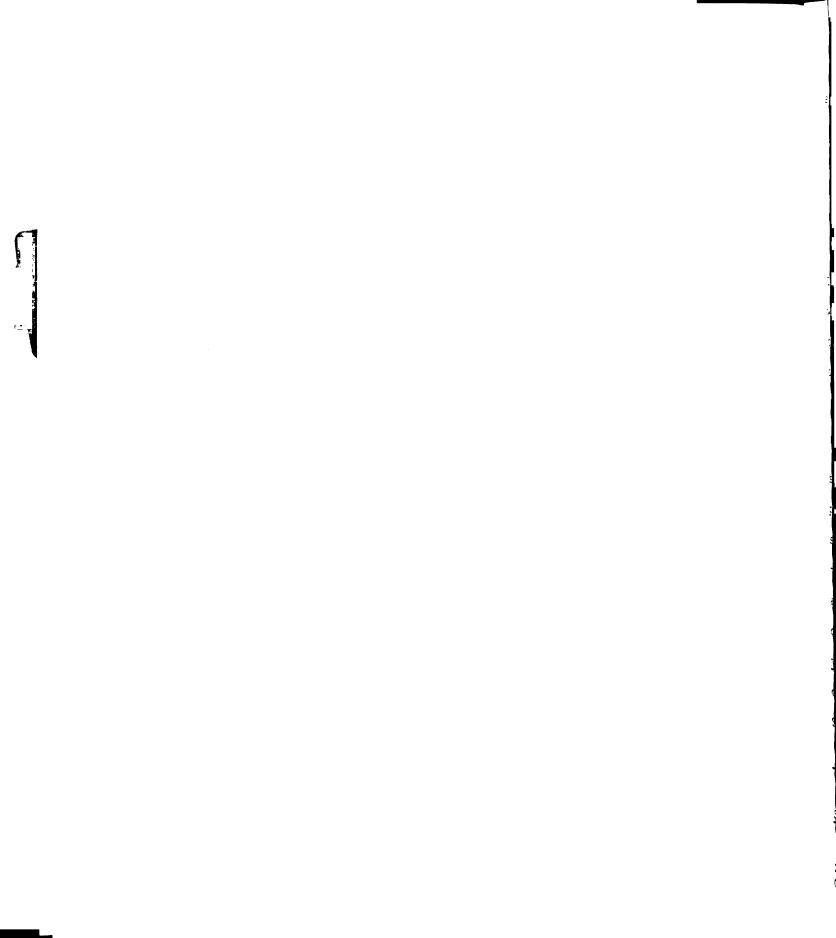
²Starring and Knauss, The Michigan Search for Educational Standards, pp. 159-60.



Students with two years of high school could take the rural-school course. With two years' normal school work they were certified only for districts employing two teachers. The graded-school course required four years of high school and forty-two weeks at a normal school and resulted in a certificate in any school valid through grade nine. The limited-life course required two years beyond high school and certified the graduate to teach in any school. In the 1906-1908 biennium, the State Board granted 215 rural school certificates, 339 graded school certificates, and 1,112 limited-life certificates. 1

The constitutional and legal development of the State Board of Education from its inception in 1849 and throughout the nineteenth century to the eve of the Michigan Constitutional Convention of 1908 was also influenced by related developments in the Office of the Superintendent of Public Instruction. While the State Board had developed as a central education agency for teacher training and certification, the Office of the Superintendent had become the central state agency for public elementary and secondary education in Michigan. The Constitution of 1850 had given both the State Board and the Office of Superintendent constitutional status as central state education agencies. In addition, the constitution had provided that the Superintendent serve as an ex officio member and the

¹Ibid., p. 162.



secretary of the State Board. Edmonson indicates that

the relation in Michigan of the state superintendent of public instruction to the state board of education as first defined in the constitution of 1850 should receive special attention. It should be noted that from the time of the creation of the state board of education, the superintendent of public instruction has been an ex-officio member and the secretary of the board. This had made for harmony and cooperation in state educational affairs.

I. N. Edwards states that "prior to 1864, Michigan and Iowa were the only states to articulate in any way the functions of these [two] officials." The articulation of these two offices in Michigan from 1850-1908 is analyzed next.

New Constitutional Powers of the Superintendent

The phrase "the general supervision of public instruction" was new in the 1850 constitution and clearly placed that function of education under the province of special educational governance in Michigan. Evidence of the debate as to whether education should be under the authority of general or special governance at mid-nineteenth century in Michigan comes from the Debates of the Convention of 1850. A proposal had been submitted to the convention that would have abolished the office of the Superintendent of Public Instruction and placed these

¹Edmonson, The Legal and Constitutional Basis of a State School System., p. 13.

²Isaac N. Edwards, "Constitutional Basis of Public School Administration" (unpublished thesis, University of Chicago, n.d.), p. 89. Cited by Edmonson, <u>Ibid.</u>, p. 14.

functions with the Secretary of State. John Pierce, originator of this office and a delegate at this second constitutional convention, rose to the occasion by asking:

Why is it . . . that Prussia stands at the head of education in Europe? For the simple reason that she has a Minister of Public Instruction to superintend and foster everything relating to the education of her people. I am entirely opposed to the notion. 1

Pierce carried the day. The office was continued in the new constitution and the powers of the Superintendent were enlarged to include general supervision of public instruction, and membership on the newly created State Board of Education.

Francis W. Shearman, the incumbent state superintendent in 1850, took a high view of the function of supervision in his annual report in 1852. In addition, he delineated a dozen other responsibilities and functions of the office. Shearman held that the Superintendent was to provide

general supervision not only of primary schools, but of the universities, of colleges, academies, high schools, and all schools, established or to be established throughout the state. True, the government of these institutions was to be confided to the management and control of local officers adapted to the character and wants of each—but over all, as representing the guardian watchfulness and interest of the state was intended to be the general officer of Public Instruction.²

Debates of the Convention of 1850, p. 535, as cited in Edmondson, p. 13.

P- 4. Edmonson, The Legal and Constitutional Basis,

Shearman, in language reminiscent of Horace Mann, then elaborated at some length on the duties of the Office of Superintendent as viewed from his analysis of the intent of the original constitution and from his experience of four years in that office. He envisioned the functions of the Superintendent as accumulating all the material from all levels of public education and

laying it in embodied form before the tribunal of the people and their legislatures; devising and maturing plans for improvement; requiring full information in every particular relating to the annual condition and progress of all these institutions; preparing suitable forms of procedure for the expedition and correct transaction of business; suggesting the wants of the system, and perfecting its details where it was found to be wanting; giving his support to the labors of officers entrusted with the care of schools; impressing the importance of education by public lectures and personal visitations in the various counties and districts; infusing life and zeal; and spreading information among all; showing the rewards of labor; and by the energy of his exertions, in common with others, and high advantage of position in acquiring knowledge, ensuring progression in all that relates to educational, intellectual, and moral achievement. 1

While the description by Shearman of the functions of the office of Superintendent of Public Instruction was a glowing account, the real operation was more mundane. A recent account by the staff of the Michigan Department of Education states that "during these early years, the work of the department was to a great extent a one-man operation,

¹Ibid., pp. 4-5.

although the superintendent was often aided by a secretary and a janitor."

From 1837 to 1850 five men, John D. Pierce, Franklin Sawyer, Jr., Oliver C. Comstock, Ira Mayhew, and Francis W. Shearman, had been appointed to the Office of Superintendent. Shearman was the first popularly elected Superintendent under the 1850 charter and was followed by fifteen successors prior to the 1908 Constitution. Starring and Knauss trace briefly the accomplishments of each of these men. 2

Two factors, in their view, limited the effectiveness of the Office of the Superintendent of Public
Instruction as a central education agency during this
period. The first was the Jacksonian trend toward dispersement of power through more elected state and local
officials. This affected education in that

not only was there resistance to state supervision, but a system of elected county superintendents, established in 1867 . . . was replaced in 1875 by a system of township superintendents. Thus, actually, Michigan had moved away from centralization of control over its school system.³

The second factor limiting the superintendent was the administration of the public elementary schools at the

Pearson and Fuller, Education in the States: Historical Development and Outlook, p. 597.

²Starring and Knauss, The Michigan Search for Educational Standards, Chapter V and pp. 108-12, 153-55.

³<u>Ibid.</u>, p. 11.

local level. Starring and Knauss concluded that the State Superintendent of this period "had little authority over local school districts, his work being largely confined to the collection and dissemination of statistical data, the distribution of the annual payments from the proceeds of the primary school fund, and the making of recommendations." This analysis would coincide with the assessment made by Roe that this period in the development of the powers and functions of the Office of the Superintendent of Public Instruction throughout the American states could best be designated as "advisory, statistical and exhortatory."²

Perhaps 1875 was the nadir of the state central education agencies in Michigan. The year marked the abolishing of the office of county superintendent of schools by the legislature. Fifty-six county superintendents were replaced by 939 elected township superintendents with powers to issue teachers' certificates and advise district school boards. From a different perspective, the years 1875-1881 could be called the zenith of

¹ Ibid.

William H. Roe, "State Department of Education: Role and Function," The Encyclopedia of Education, Vol. VIII (1971), p. 396.

Michigan, Public Acts (1875) No. 42.

Starring and Knauss, The Michigan Search for Educational Standards, p. 30.

local control of education in Michigan. Whatever the perspective, the State Superintendent held limited powers, county superintendents had given way to township superintendents, and the three state institutions of higher education were each operated by a board of control.

One important highlight of Michigan educational history occurred at this point that sustained the earlier efforts of educators and political leaders to set up a state system of public education. Judge Thomas A. Cooley, speaking for the Supreme Court, in the famous Kalamazoo Case, upheld the position that Michigan, from 1817 on, had established a state system of public education at all levels. In the opening paragraphs of the decision under the title of "State Policy," the Supreme Court of Michigan stated that

The state policy of Michigan on the subject of education, and of the territory before the state was organized, beginning in 1817 and continuing down until after the adoption of the present constitution, is reviewed and considered, and the conclusion reached that there is nothing either in our state policy, or in our constitution, or in our laws, restricting the primary school districts of the state in the branches of knowledge which their officers may cause to be taught, or the grade of instruction that may be given, if the voters of the district consent in regular form to bear the expense and raise the taxes for the purpose

Charles E. Stuart and others v. School District
No. 1 of the Village of Kalamazoo and Others, 30 Mich.
69-84 (1874).

² Ibid.

This ruling clearly made public high schools the logical and necessary link between the primary school districts and the institutions of higher education.

Those favoring county control of certification of teachers did not take lightly the 1875 legislative act abolishing the office of county superintendent. Backed by a succession of recommendations from the state Superintendents, these supporters, largely professional educators, succeeded in getting legislative acts passed in 1881 and 1887 to create county boards of examiners with the power to issue teaching certificates. 1 Starring and Knauss attribute this reversal of decentralized control of schools to "progressive schoolmen [who] believed that the most pressing need of the state's system was the centralization and concentration of authority over rural schools."2 efforts of these schoolmen turned the tide toward greater centralization of educational governance in Michigan under the leadership of the state superintendents. Starring and Knauss concluded that

The most striking feature in educational developments during the eight years immediately preceding the adoption of the 1908 constitution was the rapid expansion of the authority and influence of the state superintendent of public instruction. This power was often wielded in conjunction with the State Board of Education. . . Legally and constitutionally he was

¹Michigan, Public Acts (1881) No. 164; Michigan, Public Acts (1887) No. 266.

²Starring and Knauss, The Michigan Search for Educational Standards, p. 69.

the head of the public school system of the state . . . serving . . . in 1907-1908 . . . 529,352 [students].

In 1908 it seemed certain that he would in the future be the central figure in the state's educational development, aided and at times pushed by the State Board of Education . . . 1

A quantitative description of the size and scope of the Office of Superintendent at this period is contained in a recent report written by the Michigan Department of Education. The report states that

By the turn of the century, the increased responsibilities and demands upon the State Department of Public Instruction were reflected in the additional personnel. In 1900, there were, in addition to the state superintendent, a deputy, a chief clerk, three statisticians, an editor, three stenographers, a shipping clerk, and a janitor, who also served as messenger. There were no separate bureaus or divisions. The department functioned in areas of teacher education and certification, teacher examinations, consolidation, improvement of rural education, improvements of school buildings and facilities, financing of education, and courses of study.²

The second significant contribution of the 1850 constitution to the Office of the Superintendent of Public Instruction was this membership of the Superintendent on the new State Board of Education. As permanent Secretary of the four-member Board the Superintendent was in an excellent position to articulate the needs of public elementary and secondary education with that of higher education in Michigan. A major function that emerged in

¹<u>Ibid.</u>, pp. 173-74.

Pearson and Fuller, <u>Historical Development</u>, pp. 597-98.

Michigan which affected all levels of public education was the training and certification of teachers, especially for the common schools. This was the function that prompted the creation of the State Board by law in 1849. The 1850 Constitution empowered the Board to "have the general supervision of the State Normal School." The Normal School was opened at Ypsilanti in 1852, "the first such school west of the Alleghenies." The Superintendent, as a member of this Board, influenced this agency for the next century.

The period between the ratification of the Michigan Constitution of 1850 and the calling of the 1908 Constitutional Convention had been a time of significant developments in the contitutional and legal powers, organization and functions of the state central education agencies in Michigan. The Office of the Superintendent of Public Instruction had been continued as a constitutional office for special educational governance. This agency had been strengthened as a state central agency by the constitutional mandate for "general supervision of public education" and permanent membership on the State Board of Education. The State Board, with its constitutional status, had added three normal schools to its original jurisdiction, the Michigan Normal School. By 1908 the

Starring and Knauss, The Michigan Search for Educational Standards, p. 11.

legislature had placed all powers for certification of Michigan teachers in the Board as a state central agency of special educational governance. The legislature had assigned functions to both the State Board and the Office of the Superintendent of Public Instruction. The third central state agency in Michigan, the University of Michigan, had also experienced constitutional and legal changes of significance to the present time. An analysis of these developments completes the troika of Michigan central education agencies.

Constitutional Status for the University

The Michigan Constitution of 1850 proved to be a most significant development in the history of the University of Michigan. Dunbar asserts that "the provisions in the Constitution of 1850 for the University of Michigan constitute the most important policy decision in the history of higher education in Michigan." Evidence of this is the fact that these provisions were, in essence, continued in the 1908 Constitution and made applicable to the Michigan Agricultural College, now Michigan State University. In 1959, by constitutional amendment, Wayne State University was granted similar status and powers, and the 1963 Constitution made several of the 1850

Willis F. Dunbar, "Higher Education in Michigan's Constitutions," The Michigan Quarterly Review (Summer, 1962), 148.

provisions applicable to all public four-year colleges and universities in Michigan. Four of the 1850 constitutional provisions that were particularly significant are analyzed in some detail.

The first of these provisions was the decision to grant constitutional status to the University by declaring that the Regents should "constitute the body corporate known as the 'Regents of the University of Michigan'" (Section 7). The second decision provided that the Regents be elected at-large rather than appointed by the Governor and legislature. The third constitutional provision gave the regents "the general supervision of the University and the direction and control of all expenditures from the University interest fund." The final provision made the president of the university an ex officio member, and chairman, of the Board of Regents.

The decision of the 1850 constitutional convention to provide "corporate status" for the University in the new constitution was due to the difficulties experienced by the university under the 1835 Constitution. The first constitution had "left full power to the legislature to manage the affairs of the University, to regulate the appointment of the Regents, to establish or abolish departments, to regulate the appointment of professors, and to control

expenditures from the University funds." This influence of general government in the affairs of the university created considerable discussion and dissention and "in 1840 a select committee was appointed by the legislature to inquire into [and report on] the condition of the University." In rather forthright language their report compared the private and public colleges of that day and concluded that "no State institution in America has prospered as well as independent colleges." The report goes on to explain that state institutions "have not been guided by that . . . singleness of aim (essential to their prosperity) that others have whose trustees are a permanent body" [emphasis added]. Part of the permanence of private college boards was their status as corporations with lay membership. It was this model of special governance that prompted the delegates at the 1850 constitutional convention to make the Regents a "body corporate." Section 4 of the Education Article of the 1908 constitution continued the "body corporate" status of the Regents of the University of Michigan. Several court decisions have touched

Wilfred B. Shaw, ed., The University of Michigan: An Encyclopedic Survey, Volume I (Ann Arbor: The University of Michigan Press, 1942), p. 118.

²Ibid., p. 119.

³2 H. Doc., 1840, p. 470 as cited by Shaw, <u>Ibid</u>.

⁴ Ibid.

on this provision of the constitution. In 1911 the Supreme Court, in the case of Board of Regents vs. Auditor General, held that "by the provisions of the Constitution . . . the board of regents is made the highest form of juristic person known to the law, a constitutional corporation of independent authority, which, within the scope of its functions, is co-ordinate with and equal to that of the legislature." A key phrase in this decision was the working, "within the scope of its functions." A series of court cases in Michigan have helped define and delimit these functions. In general, these decisions have protected the autonomy of the University in its functions of academic freedom, educational policies, and internal fiscal and administrative arrangements.

The second and probably major concern of the delegates at the 1850 constitutional convention was to separate more completely the selection and retention of the Regents from the influence of the legislature. The Select Committee of 1840 was particularly disenchanted with boards appointed by legislators. They concluded that

When legislatures . . . have acted through a board of trustees, under the show of giving a representation to all, they have appointed men of such dissimilar and discordant characters and views that they never could act in concert; so that, whilst supposed to act for

¹167 Mich. 444, 132 N. W. 1037 (1911).

and represent everybody, they, in fact, have not and could not act for anybody. 1

The effect of this, according to the Committee, was that

State institutions have been, through the jealousy of State legislatures, thus sacrificed to the impatience and petulance of a heterogeneous and changeable board of trustees, whose terms of office is so short that they have not time to discover their mistakes, retrace their steps, and correct their errors, [therefore] it is not surprising that State universities have . . . , almost without exception, failed to accomplish, . . . the amount of good that was expected from them, . . . 2

The solution to this problem in the 1850 Constitution was an elected Board of Regents, each regent elected from one of Michigan's eight judical districts for a six-year term. In 1862 a constitutional amendment extended the term of office to eight years and had all regents elected-at-large by the Michigan voters. This arrangement was continued in the 1908 and 1963 constitutions.

The third provision of the 1850 Constitution related to the University of Michigan was the power of the Regents to "have general supervision of the University and the direction and control of all expenditures from the University interest fund." At that time the University received no general appropriations from the legislature and the only public finance was the interest from the funds obtained through the sale of federal lands granted the state in the 1835 charter. This provision was reviewed

Survey, p. 119.

² Ibid.

judicially in 1896 in <u>Sterling</u> v. <u>The Regents of the University of Michigan</u>, and Mr. Justice Grant concluded that the delegates to the 1850 convention did not intend to

take away from the people the government of this institution. On the contrary, they designed to, and did, provide for its management and control by a body of eight men elected . . . for long terms, and whose sole official duty . . . should be to look after its interests, . . . to investigate its needs, and carefully deliberate and determine what things would best promote its usefulness. . . . It is obvious to every intelligent and reflecting mind that such an institution would be safer and more certain of permanent success in the control of such a body than in that of the legislature, composed of 132 members, elected every two years, . . . [who] have little or no time to intelligently investigate and determine the policy essential for the success of a great university.1

This provision was continued in the 1908 Constitution in Section 5 of Article XI. With only the word "interest" deleted, Section 5 of the 1963 Constitution reads, "the control and direction of all expenditures from the institutions' funds."

The fourth provision of the 1850 Constitution still in evidence in Michigan higher education was to make the President of the University an ex-officio member and chairman of the Board of Regents, without the right of voting. Dunbar relates that "it has been suggested that if a governing board were to elect its own chairman, he might become a sort of 'second president' and conceivably might usurp some of the powers and prerogatives of the

¹¹¹⁰ Mich. 369 (1896) as cited by Shaw, <u>Ibid</u>., p. 120.

institution's chief executive." A more likely explanation was that the delegates to the convention were seeking to strengthen the university by ensuring able leadership in board functions and envisioned the President of the University as the ablest leader available. Whatever the case, the practice was continued in the 1908 and 1963 constitutions and extended to other boards of control.

It is clear from the provisions cited from the Education Article of the 1850 Constitution and the supporting opinions of court decisions and special committees of that period that the governance of the University of Michigan was no longer to be a part of the general governance of the legislature, either in matters of policy or in the selection of the Regents of the University. reasons seem clear. The vision of a great university, first conceived by Augustus Woodward and forwarded by John Pierce and others, still remained in the minds of many Michigan citizens. Fifteen years of experience under the first Michigan constitution had convinced the delegates at the second convention, including Pierce and Crary, that no legislative body, or board appointed by that legislature, had the interest, expertise, or permanence to insure continuous growth and greatness in Michigan higher education. Their response was to create a constitutionally autonomous

Dunbar, "Higher Education in Michigan's Constitution," p. 151.

agency of special governance controlled by a board elected by the people of Michigan to serve as the central agency for university education in Michigan.

New Functions "By Law," 1908-1963

The central education agencies in Michigan did not undergo significant constitutional developments in either powers or organization under the third charter of Michigan government, the 1908 Constitution. The major development during this fifty-five year period, 1908-1963, was the added functions given by law to these agencies. added functions were the result, at least in part, of the rapid increase in the population of the state and in the changing composition of this population from a rural agricultural to an urban industrial citizenry. The effect of these changes on Michigan government was to centralize more and more of the functions of government, including education, in central state agencies of governance. In order to accomplish these additional functions the general government of the state adapted in two ways; the legislature continued to transfer functions to special agencies of governance and efforts were made to reorganize the executive branch into fewer, more responsive departments. section explores the results of these developments on the State Board of Education and the Office of the Superintendent of Public Instruction.

The Constitutional Convention that met in Michigan from October 22, 1907 through February 22, 1908 made few major changes in the structure of Michigan government and none of significance in the central education agencies. Sturm states that

the delegates decided to revise the 1850 document instead of writing a new one . . . the 1908 constitution . . . retained many of the details that evidenced distrust of the legislature, and it incorporated the Jacksonian principles of elective officers and frequent rotation in office. The basic framework of government remained substantially intact. 1

The constitution retained the election of the State Board of Education, the Superintendent, and the Regents in at-large state elections. The six-member State Board of Agriculture was made an elected board and a "body corporate" with the same powers for the Michigan Agricultural College that the Regents had for the University of Michigan. The Superintendent was made an ex-officion member of these boards.

The big change for Michigan in the twentieth century was not constitutional but demographic. In 1910 Michigan had a population of 2,810,173. Each of the next five decades registered an average increase of one million people. By 1960 Michigan had a population of 7,823,194

labert L. Sturm, Constitution-Making in Michigan, 1961-1962, Michigan Governmental Studies No. 43 (Ann Arbor: Institute of Public Administration, The University of Michigan, 1963), pp. 7-8.

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Athan B 1971) residents. In 1850 93 per cent of Michigan's 397,654 residents were classified as rural; in 1910 53 per cent were rural; by 1960 only 27 per cent were listed as non-urban. Of the nearly three million people in Michigan in 1908 just over one-half million of them were enrolled in the public elementary and secondary schools. By 1930 this number had doubled and remained constant until the post World War II baby boom. By 1963 the enrollments had reached 1,765,394 in the public schools of Michigan. 3

These rapid increases in both the general population and the school enrollments in Michigan prompted significant changes in the governmental administrative structures of the state. Historian Samuel Hays explains that

The evolution of administrative systems, . . . is one of the most profound developments of urban-industrial society since the mid-nineteenth century. . . . The past century has witnessed a persistent development of administrative systems; an elaboration of their size and scope; extension of the realms of life they encompass, [and] upward flow in the location of decision-making [emphasis added] . . . 4

A recent analysis by Crane and Watts of the historical trends in state legislatures indicated that

¹ Michigan Statistical Abstract, 7th ed., 1968, p. 7.

²<u>Ibid.</u>, p. 9. ³<u>Ibid.</u>, p. 61.

American History, Retrospect and Prospect, ed. by George Athan Billias and Gerald N. Grob (New York: The Free Press, 1971), p. 337.

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As states assumed more and more functions, the administration became increasingly larger. As the nature of government regulation became too complex to be dealt with by statutes, more and more vital decisions were made by executive order and administrative rule-making.1

In a chapter on the "Legal Basis for State School Administration," Thurston and Roe related how this administrative function was transferred from general to special educational governance.

It may be seen that the legislatures of the several states have been given broad and all-inclusive authority in regard to education, which authority has been upheld by the courts. It is not a function that they may perform but one that they are enjoined to perform. . . .

The legislature with the mandate of providing a system of education for the state could not do its duty unless it had a central state educational agency to which it could turn for advice, for expediting and clarifying its rulings, and to assist in executing many of its statutes. Legislatures have neither the authority nor technical knowledge to carry on this function.²

It is this increase in state government functions for education in Michigan requiring central education agencies characterized by an "upward flow in the location of decision-making" that account for the changes that occurred in the Office of the Superintendent and the State Board of Education from 1908 to 1963.

Wilder Crane, Jr. and Meredit W. Watts, Jr., State Legislative Systems (Englewood Cliffsn, N.J.: Prentice-Hall, Inc., 1968), p. 5.

²Lee M. Thurston and William H. Roe, <u>State School</u>
Administration (New York: Harper and Brothers, Publishers, 1957), p. 70.

³A more complete treatment of these developments would need to discuss the distribution of functions

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The 1908 Constitution continued the pattern set in the 1850 charter of having two central education agencies, the State Board and the Office of the Superintendent, that

between state and local education agencies as well as the sources of revenue for financing education that occurred in Michigan in the twentieth century. These are outside the scope of this study. However, three sources are cited here to give some awareness of the importance of these two areas.

In Chapter IV of The 50 States and Their Local Governments, entitled "Functions of State and Local Governments," two trends are summarized: "The first is . . . the apparently irreversible overall expansion of governmental functions taken all together -- a trend related to the growth of population, gross national product, urban life, and the rising tide of social expectations. The second, not quite so obvious, is the simultaneous shift in the composition, or mix, of functions as among levels of government--whereby, increasingly, planning is undertaken, broad policies are determined, and funds are raised at successively higher levels, while operations are expanded at lower levels and funds flow outward and downward to support them. the often decried trend toward 'centralization.'" James W. Fesler, ed., The 50 States and Their Local Governments (New York: Alfred A. Knopf, Inc., 1967), p. 105.

Schabacker, under "State Boards of Education," explains this shift toward centralization largely in economic terms. "The legislature has traditionally delegated to the local school district the responsibility for operating the schools, . . . the vertical rise in educational control (local to regional to state) can probably be correlated with the increased reliance on non-local sources of revenue for school operations, with the inability or unwillingness of local school systems to meet the needs of children and the desires of parents, and with the general upward drift of decision-making in the policy." William A. Schabacker, "State Boards of Education," The Encyclopedia of Education, Vol. VIII (1971), pp. 420-21.

Thurston and Roe concluded that state legislatures "have been given a wide choice in setting up a system for operating schools. For the most part, . . . the plan followed has been that of giving broad powers in operation to the local agents and delegating to the state department of education the functions of inspection, maintenance, interpretation, and leadership" [emphasis added]. Thurston and Roe, State School Administration, p. 70.

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could carry out functions delegated "by law." This arrangement enabled the legislature to delegate any given function to the agency most appropriate for that task.

Robert Will in a chapter, "The Central Education Agency," points out that

This pattern, which evolved out of the experience gained in State education administration in the 19th century, permits the legislature to delegate State educational duties and powers to either a State board of education or a chief State school officer, using a common sense rule of thumb to place duties requiring broad discretionary power with the State board, and duties requiring little or no discretionary power with the chief State school officer. This arrangement does . . serve to minimize the dangers of complete control by one man over programs that State legislatures cannot in good conscience entrust to one man: For example, . . . programs determining who shall teach--teacher examination and certification, and programs for the operation and management of one or more educational institutions. 1

Will's perceptive analysis accurately summarized the legal developments for the Michigan State Board of Education and the Superintendent of Public Instruction from 1908 until January, 1963, the effective date of Michigan's latest constitution.

The State Board of Education, in 1908, had the constitutional power of "general supervision of the state normal college, and the state normal schools," with other "duties of said board prescribed by law" (Article XI,

Robert F. Will, <u>State Education Structure and Organization</u>, OE-23038, <u>Misc. No. 46</u>, U.S., <u>Department of Health</u>, <u>Education</u>, and <u>Welfare</u>, Office of Education (Washington, D.C.: Government Printing Office, 1964), p. 10.

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Section 6). The four normal schools were under its control. Public Act 194 (1889) had made the Board a "body politic and corporate" and Act 202 (1903) granted the Board authority and required it set requirements and "issue all licenses and certificates for teachers in the public schools of the state." These powers and functions were in the "broad discretionary" type granted to boards by legislatures according to Will. In an analysis of the twentyeight states that had a board designated as a "state board of education" at the turn of the century, Will identified twenty-one categories of powers and duties. 1 The most frequently delegated function was determining who should teach with twenty of the twenty-eight boards holding this power. Fifteen boards served as a court of appeals for selected educational issues; ten boards had some responsibility for textbooks, ten boards for prescribing rules and regulations of public schools, and nine boards operated one or more state educational institutions. The State Board of Education in Michigan had just the two functions -- certification and operating the normal schools.

Between 1908 and 1925 the primary task of the State Board had been to operate the normal schools. The total enrollments in the four schools was approximately 2,500 students in 1908 and grew to 7,500 by the fall of 1927. Enrollments at each of the schools that fall were 2,667 at

¹<u>Ibid.</u>, pp. 12-13.

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Pp. in 1 Michigan State Normal College, 1,169 at Central State
Teachers' College, 726 at Northern State Teachers' College,
and 2,759 at Western State Teachers' College. Legislative
appropriations for the normal schools had increased from
\$158,000 annually in 1900, to \$359,000 in 1910, to
\$2,412,000 in 1927-28.

Congress, from 1917-1921, passed two laws that subsequently added to the functions of the State Board of Education. In 1917 the Smith-Hughes act was passed to provide appropriations on a matching basis by the states for vocational education. In 1919, the Michigan Legislature passed Act 149 that set up a "board of control for vocational education" (Section 3). This seven-member board included the president of the State Board with the Superintendent of Public Instruction designated as the executive officer. A second act by Congress provided funds for "vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment." Act 211 (1921) of the Michigan legislature designated the "state board of control for vocational education" to operate this program. These two acts subsequently fostered major educational programs in Michigan.

Dunbar, The Michigan Record in Higher Education, pp. 204-06. The legislature approved these name changes in 1927.

²Ibid., p. 209.

Edmonson, in his 1926 study of the constitutional provisions, laws, and the supreme court decisions affecting the school system of the state of Michigan, had concluded that the State Board of Education as a central education agency "has limited authority and occupies a restricted field in matters pertaining to a general system of education in the state." This conclusion was based on an analysis of those provisions of the Revised School Law of 1923 that pertained to the State Board. Edmonson delineated seven important duties contained in the statues. The first three duties related to the general care and management of the state normal schools. Three duties required the Board to certify (1) graduates of the normal schools, (2) out-of-state candidates, and (3) graduates of other colleges of the state. The final duty related to the approval of public school physiology textbooks. trast to the limited authority held by the State Board, Edmonson concluded that the Office of the Superintendent "has very wide and varied powers in matters pertaining to the administration of public education and these powers are defined in the statues." The 1850 and 1908 constitutions had granted the Superintendent the power of

James Bartlett Edmonson, The Legal and Constitutional Basis of a State School System (Bloomington, Ill.: Public School Publishing Company, 1926), p. 111.

²<u>Ibid.</u>, pp. 103-04. ³<u>Ibid.</u>, p. 111.

"general supervision of public instruction" (Article XI, Section 2, 1908). Edmonson held that

this is a blanket statement of authority and must be considered in connection with the clause stating that "his duties shall be prescribed by law." The legislature, in defining the duties of the state superintendent, has continually added to the responsibilities of the office. 1

In an analysis of the duties of the Office of Superintendent compiled in March, 1925 by the incumbent superintendent, Thomas E. Johnson, for Edmonson there are fifteen distinct duties and activities identified. Twelve of these duties fit the category defined by Roe as "the regulatory functions." Included were such duties as approval of local district building plans, textbooks, courses of study, and, of growing importance, distribution of state school financial aid.

The unevenness between the increased duties and functions of both the State Board of Education and the

¹<u>Ibid.</u>, p. 149. ²<u>Ibid.</u>, pp. 180-89.

Roe, "State Department of Education: Role and Function," The Encyclopedia of Education, Vol. VIII, pp. 395-400. In this article Roe states that "In general, each state department of education has four major roles: regulation, operation, administration of special services, and leadership of the state program." Roe also divides the growth of state department of education functions into the following five periods:

^{1812-1890:} Advisory, statistical and exhortatory functions

^{1890-1918:} Regulatory function

^{1918-1932:} Maintenance and operational functions

^{1932-1953:} Expansion of service and support functions

^{1953-1970:} Improve and establish leadership roles along with the federal-partnership concept.

Office of the Superintendent "by law" had perhaps become the major concern related to state educational agencies during the twentieth century. It was becoming increasingly evident to professional and governmental groups that there were possible dangers in centralizing too many state functions for education in the Office of the Superintendent of Public Instruction. This office was controlled by one man, elected independently on a partisan ballot and who possessed a considerable degree of autonomy from the Office of the Governor as a result of the Michigan pattern of plural executives elected at-large for two year terms. Edmonson expressed these concerns in his statement that

In view of the heavy responsibilities assigned to the superintendent of public instruction, it would be highly desirable to change the manner of selecting this official. The present plan is extremely dangerous, since it makes possible the selection of an incompetent man for this office, and in view of the large powers centered in the office, it would be possible for an incompetent man to do irrevocable harm during a term of two years. 1

In short, it was placing too many duties and functions in the hands of a single individual rather than with a board and hence violated the rule of thumb described by Will that broad discretionary powers to a State Board served "to minimize the dangers of complete control by one man over

¹Edmonson, The Legal and Constitutional Basis of a State School System, p. 158.

programs that State legislatures cannot in good conscience entrust to one man."

Edmonson's solution to this danger was to recommend that

The constitution should be so changed as to provide for the election of the state superintendent of public instruction by a state board of education. . . This proposed change would of necessity involve a modification of the constitutional provision for the state board of education. The general powers and duties of such a board would be increased beyond its present control of the normal schools and certain matters of certification. The state board of education would become a body with large legislative powers. It would have the general oversight and control of the public school system of the state, except such of the higher institutions as are now under separate state boards.²

This theme of making the State Board of Education the central education agency with an appointed superintendent had been voiced by numerous organizations and study commissions since the turn of the century. The Michigan State Teachers Association and its successor, the Michigan Education Association, had consistently urged the adoption of this arrangement. The Michigan Educational Planning

Will, State Education Structure and Organization, p. 10.

²<u>Ibid.</u>, p. 160.

In 1900 the Michigan State Teachers Association launched this effort through a committee to study and recommend legislation on this topic. It was chaired for fifteen years by Allen S. Whitney, first Dean of the School of Education at the University of Michigan. This committee "recommended the enlargement of the State Board of Education to include a wider interest representation through popular election and the appointment of the State Superintendent by the enlarged State Board." From The Improvement

Commission (1933) and the Michigan Public Education Study Commission (1943) had both recommended an enlarged State Board with an appointed superintendent. The later commission (1943) published a major report that contained a detailed analysis of the State Board of Education. 1

In tracing the history of the powers and functions of the State Board the 1943 Preliminary Report noted that "in 1919 the State Board of Education was still restricted in its authority to direction of the four normal schools and the more recent tendency of placing certain responsibilities for elementary and secondary education on this board had not yet developed." In the fifteen year period, 1919-1943, the Legislature had "by law" made the president of the State Board a member of the board of control for both vocational and rehabilitation education. In addition, Act 84 (1921) and Act 327 (1931) had made State Board approval mandatory before any educational corporation could be approved under the Michigan General Corporation Act with subsequent State Board visits required every three years (Section 177). In 1937 the operation of the School for the

of Public Education in Michigan: The Preliminary Report (Lansing: Michigan Public Education Study Commission, November, 1943), pp. 286-87.

^{1 &}lt;u>Ibid</u>. Of interest was the fact that Stephen S. Nisbet, President of the 1961-1962 Constitutional Convention, was a member of this commission. Nisbet was elected to the State Board of Education in the spring of 1943 and served eighteen years until 1961.

²Ibi<u>d</u>., p. 267.

Deaf and the School for the Blind was transferred to the State Board by the legislature in Act 263 (1937). Another major duty was delegated to the State Board in Act 148 (1943) when the licensing and inspection of all private trade schools, business schools and institutes became a Board responsibility. It was these acts of the legislature that the 1943 Preliminary Report referred to as the recent tendency for more Board responsibility for elementary and secondary education.

Several additional observations of the Public Education Study Committee provided insights into the problems and future possibilities of the State Board as a state central education agency. The Committee held that the State Board " . . . has been gradually granted some of the powers pertaining to a general State Board of Education" and that the "tendency of the legislature to enlarge the powers of the State Board . . . has given impetus to the several programs of educational reform that desire policymaking power to rest in a board broadly representative of all the major interests within the State." 2

Three criticisms that had been leveled at the State
Board were that it was "too small to be broadly representative of the people"; that all members since 1914 had
been professional educators representing a single special

¹Ibid., p. 284.

²Ibid., pp. 278-79.

"throughout its history [had] been exceeded in prestige as an agency in control of advanced education by both the Board of Regents and the State Board of Agriculture."

The Committee concluded its Preliminary Report to the Governor of Michigan with five recommendations concerning the state central education authority. The Committee recommended (1) that a single constitutional non-partisan State Board of not less than eight members for eight-year terms be completely responsible for planning, supervising and appraising all elementary and secondary education; (2) that all powers held by the Superintendent, the Vocational Education Board and the existing State Board, except for higher education be Board powers; (3) that the superintendent be appointed by the Board; (4) that there be an executive staff known as the Department of Public Instruction; and (5) that the four Teachers' Colleges be transferred to the Board of Regents. 2 It would be twenty years before the essential features of most of these recommendations would become a part of the new Michigan constitution.

By the middle of the twentieth century the State
Board of Education in Michigan had two constitutional
powers and duties, and several key functions that had been

¹Ibid., p. 284.

²Ibid., pp. 476-77.

delegated by the legislature. It was operating four teachers' colleges with a total enrollment of over 12,000 students and 2,500 degrees granted annually. The Board held sole power for issuing all certificates for teachers. By law, the Board was operating the state schools for the blind, deaf, and vocational rehabilitation (Act 111, 1952). Board approval was necessary for the incorporation of any educational institution and licensing of any private trade or business school. In addition, the State Board had become, again by law, the final arbitrator in disputes with a number of areas related to or among local education agencies in matters of pupil transportation, property transfers, and consolidation of school districts. All these powers and duties of the State Board of Education were codified in Section 252 of Act 269 (1955).

The twenty-year period between the recommendations of <u>The Preliminary Report</u> in 1943 and effective date of the new Michigan constitution on January 1, 1963 was the period of the most rapid expansion of public education in Michigan's history. Elementary and secondary enrollments almost doubled, going from about 950,000 students in 1943 to nearly 1,800,000 in 1943. In the fifteen year period from 1948 to 1963 state appropriations for these schools

Dunbar, The Michigan Record in Higher Education, p. 344.

²Michigan Statistical Abstract, 7th ed. (1968),
p. 61.

increased from \$70.0 million to \$338.0 million dollars. 1

Enrollments in all Michigan institutions of higher education increased from 31,000 students in 1943 to 191,000 students in 1963. 2 More than three-fourths of these students were in public institutions of higher education.

In 1963 the legislature appropriated \$131.2 million to the public four-year colleges for operating expenses and \$15.0 million for capital outlay. 3 Appropriations for the public four-year colleges and the elementary and secondary schools totaled nearly one-half billion dollars in 1963.

Faced with these rapid increases in educational enrollments and costs, the citizens of Michigan as well as governmental leaders sought ways to insure effective educational policies through an enlarged State Board of Education and more efficient centralized administration of the state educational system through an appointed professional as superintendent supported by a professional department of education. Two approaches were tried. The most basic was to revise or rewrite the 1908 Constitution. Three times, in 1942, 1948, and 1958, a call for a constitutional convention failed to secure a majority of the

^{1&}quot;Michigan," Pearson and Fuller, <u>Historical</u>
Development, pp. 600-01.

Russell, Preliminary Report, p. 49.

Report of the Citizens Committee on Higher Education (Lansing: Office of the Governor, March, 1965), pp. 41, 49.

total votes cast in the general election and so was defeated. The second approach was to secure the reorganization of the executive branch through legislative action.

The Michigan constitutions of 1850 and 1908 had dispersed some of the powers that had been held by the Legislative and Executive branches under the first Michigan constitution. This resulted in a plural executive with many elected and appointed commissions and boards to administer agencies of government. Education reflected this pattern with an elected Superintendent, State Board, Board of Regents, and Agricultural Board. An unusual and important constitutional function of the Superintendent from 1850 to 1921 had been membership on the three-member Board of State Auditors which, according to Heady, "was the most powerful central management agency" with powers over personnel, compensation, travel expenses, and purchasing.1

In 1921 Governor Groesbeck received unanimous approval from the Legislature to set up a powerful Administrative Board composed of the seven elected executives, including the Superintendent. The Governor was chairman of the Board with veto powers. The powers of this board included personnel, budgeting, purchasing, and construction. In 1933 the budget powers were shifted to

Perrel Heady, State Constitutions: The Structure of Administration, No. 4, State Constitutional Studies (New York: National Municipal League, 1961), p. 36.

²<u>Ibid</u>., pp. 37-38.

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Sta Comi 195 the Governor's office and in 1940 a constitutional amendment established the Civil Service Commission with powers to select, set the salaries of, and dismiss personnel. In 1948 a Department of Administration was created.

From 1949 to 1951 a Michigan "Little Hoover Commission" wrote thirty reports on executive reorganization. The goal of the commission was to "construct a state government that can be more effectively managed, . . . with a minimum of manpower." The report characterized Michigan as "a hodge-podge . . . designed (if there is a design!) to disperse executive authority, no matter what the consequences. . . Fear of the executive has been the one all-pervading consideration reflected." 3

Fear of a strong central education agency in Michigan was not a concern of this Commission as they recommended a powerful, centralized State Board of Education. The Final Report stated that "the present elected board of education should be replaced by a board of eight members appointed by the governor for eight-year staggered terms." The Superintendent of Public Instruction would be appointed by the Board. The Board would have control

¹Michigan <u>Public Acts</u> (1948), No. 51.

²General Management of Michigan State Government, Staff Report No. 30 (Lansing: Michigan Joint Legislative Commission on Reorganization of State Government, November, 1951), p. I-1.

³ Ibid.

⁴<u>Ibid.</u>, p. II-70.

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over <u>all</u> elementary, secondary and higher education in Michigan except the University of Michigan and Michigan State University. In addition, the State Board would have control over the state library system, the state tenure commission, the Michigan historical commission and the boards for vocational education and rehabilitation. No major recommendation from a state-sponsored commission or branch of government had proposed a plan of this magnitude for a centralized state system of education since Augustus Woodward had almost unilaterally designed and decreed the Catholepistemiad into existence in 1817 in his role as Chief Justice of the five-man Territorial Legislative Board.

Little changed as a result of the "Little Hoover Commission" reports. Their effort to reduce Michigan's 114 executive offices and commissions and boards to not more than forty such agencies had failed. In 1958, as the state's fiscal, administrative and educational problems continued to mount two additional efforts at executive reorganization were made. Once more a call for a constitutional convention was thwarted because of a lack of a majority of all the votes cast. A legislative effort was more successful when Governor G. Mennen Williams signed the "executive reorganization bill" into law in April. 1

Lynn W. Eley, "Executive Reorganization in Michigan," State Government, Vol. XXXII (1959), p. 33.

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This authorized the Governor to initiate selected reorganization within the executive branch. While this was the first real progress in reorganizing state government, including educational governance, into a more effective, efficient system its success was limited by a Republican legislature reluctant to strengthen the powers of a most formidable Democratic governor in his sixth consecutive term of office.

However, lack of decisive action on the part of both the Michigan voters and the state legislature solved none of the mounting fiscal, administrative and educational needs in Michigan. In 1958 there were 1,495,729 students enrolled in the elementary and secondary schools and 143,962 enrolled in higher education in Michigan. By 1959 the nation knew about Michigan's "payless paydays" and the impasse between Governor Williams and the Republican legislature. More than half of Michigan's residents lived in the four southeastern metropolitan counties and were pressuring for legislative reapportionment. These situations required immediate solutions. Numerous groups lead by the efforts of the Michigan Junior Chamber of Commerce, the League of Women Voters, and a newly formed

¹ Michigan Statistical Abstract, pp. 61, 80.

²Sturm, Constitution-Making in Michigan, 1916-1962, p. 21.

³ Ibid.

Citizens for Michigan group overcame the difficulties encountered in previous calls for a constitutional convention and led a successful campaign in 1960 and 1961.

vention aroused both strong support and strong opposition. In general, educational organizations supported the calling of a convention. The reaction of the political parties was mixed. The Democratic Party, with the full support of labor, campaigned for a favorable vote while the Republican party, because of rural opposition, remained neutral. On April 3, 1961 Michigan voters approved the calling of a constitutional convention by a 23,421 vote margin. Of the total 1,169,445 votes cast there were 596,433 favoring and 573,012 opposing a constitutional convention. The time had come to make the necessary changes in both general and educational governance in Michigan.

The Status of the Education Agencies 1958-1961

The three year period between the unsuccessful call for a constitutional convention in 1958 and the successful effort in 1961 was a period of intensive study and assessment of the central education agencies in Michigan. The rapid increase in student enrollments and costs at all levels of education, the efforts to reorganize the

¹Sturm, Constitution-Making in Michigan, 1916-1962, p. 28.

executive branch of the government into fewer, more responsive agencies, and the increased functions transferred "by law" to the education agencies all combined to force the political and educational leaders to discuss and decide on some new patterns of educational governance in Michigan. These discussions and decisions focused on the central education agencies and the most effective way of organizing these agencies to carry out the constitutional and legal powers and functions delegated to them. The central questions raised related to which agency could best carry out what functions under what delegation of powers.

Three governmental or private organizations carried out major investigations to find answers to these questions. These three studies constituted a thorough investigation of Michigan education at a crucial period in the development of the constitutional and legal powers, organization, and functions of the State Board of Education, the Office of the Superintendent of Public Instruction and the four-year colleges and universities in Michigan. The findings and recommendations of these studies are utilized in this assessment of the status of the central education agencies in Michigan at the close of the 125-year history of these agencies under three Michigan constitutions. 1

¹ The first of these studies was by the Michigan Legislative Study Committee on Higher Education. The Committee published fourteen reports in 1957-1958. Three of these reports are utilized in this study. They are: John Dale Russell, Preliminary Report to the Michigan

The Michigan constitutions of 1835 and 1850 had given constitutional status to each of the three central education agencies whose development has been described and analyzed in this chapter. The first to receive this status had been the Office of the Superintendent of Public Instruction in the 1835 Constitution. In 1850 both the State Board of Education and the University of Michigan had been granted this distinction.

Over the next one hundred and ten years the primary changes in these central education agencies had been "by law" as the Legislature enacted laws that transferred functions related to education from general governance to special educational governance.

Legislative Study Committee on Higher Education (Lansing: March, 1957); John Dale Russell, Control and Coordination of Higher Education in Michigan, Staff Study No. 12

Lansing: July, 1958); John Dale Russell, Higher Education in Michigan, Final Report (Lansing: September, 1958).

The second set of studies were two reports of the Michigan Constitutional Preparatory Commission. Donald J. Leu, "Elementary and Secondary Education and the Michigan Constitution," Education and the Michigan Constitution,

Constitution, "Education and the Michigan Constitution, Report No. 11 (Lansing: Michigan Constitutional Preparatory Commission, September, 1961); Willis F. Dunbar, "Higher Education in Michigan's Constitution," Education and the Michigan Constitution, Report No. 11 (Lansing: Michigan Constitutional Preparatory Commission, September, 1961).

The third study was by a private organization, the Citizens' Research Council of Michigan, in preparation for the 1961-1962 Constitutional Convention. This was a thorough analysis and comparison of all of the Michigan constitutions on an article by article basis, tracing the constitution, laws, and court interpretations for each article. A Comparative Analysis of the Michigan Constitution, Report No. 208 (Detroit: Citizens' Research Council of Michigan, October, 1961).

The Office of the Superintendent of Public Instruction had been established in the Michigan constitution as a part of a plural-executive set of offices. Superintendent had been given the constitutional power and function of "general supervision of public instruction in the state" with the provision that "his duties shall be prescribed by law." The Office of the Superintendent was largely administrative and became the primary central education agency delegated duties by the Legislature. twenty-year period of rapid growth that occurred in Michigan from 1943 to 1963 many functions of education were centralized in the Office of the Superintendent and the supporting Department of Public Instruction. In preparation for the 1961-1962 Constitutional Convention a report was drafted by Leu which compiled all the constitutional and statutory powers and duties of the Superintendent. 1 Superintendent held membership on seven boards directly related to education and on ten boards not directly related to education. Appendix D of Leu's report, "General Powers and Duties," has forty-six different categories of powers and duties with a total of 120 specific duties listed. large majority of these duties or functions were regulatory with a few in the areas of operation and services. function that had been most recently added to this Office

Donald J. Leu, "Elementary and Secondary Education," Education and the Michigan Constitution, pp. 22-33.

had been the administration of all federal grants to the public schools for educational activities.

The State Board of Education had also been given one constitutional power and duty in the previous Michigan constitutions. The Board was to "have general supervision of the state normal college and the state normal schools," with duties to be "prescribed by law." In essence, the Board was the board of control for these schools as well as later for the schools for the blind and the deaf. The Board had become the central state agency for approving teacher education programs and granting Michigan teaching certificates. It had some additional duties related to elementary and secondary education, such as the approval of state textbook listings, the setting of standards for pupil transportation and the duty to hear appeals from county boards related to the transfer of territory between school districts. The powers of the Board were primarily policymaking with the administration of these policies carried out by either the Superintendent of Public Instruction or the chief administrative officer of the colleges and schools under State Board jurisdiction.

Of particular importance at this juncture in the development of the State Board of Education was the constitutional provision that had made the Superintendent of Public Instruction a permanent member and secretary of the State Board since its origin in 1850. This link had been established to provide continuity between the training of

teachers and the public schools needing those teachers. The early decision of the Regents of the University of Michigan not to finance the "normal" branches and the early concern of the Superintendent for elementary schools had left the void that created the need for the State Board of Education. The early role of the State Board had been that of a bridge between the Office of the Superintendent and higher education. In a way, the State Board had maintained that role for more than a century. It had operated four institutions of higher education. It had also been the primary agency insuring qualified teachers for the public In fulfilling these functions the State Board had utilized the services and staff of the Office of the Superintendent. On the eve of the Constitutional Convention the thought in the minds of many was that this was the appropriate time to centralize the administrative functions of the superintendent with the policy-making functions of the Board and create one central education agency, the State Board of Education, with an appointed superintendent. delegates to the Convention would decide this question.

The Constitutional Convention leaders had a second issue to resolve. Throughout the twentieth century there had been a growing sentiment on the part of many leaders to reverse the roles of the State Board and the Superintendent and make these two agencies one central education agency for public education in Michigan. The second issue that emerged from this consolidation of state education agencies

was the problem of deciding where the nine four-year institutions of public higher education should be placed in this arrangement.

The original Michigan central education agency, the University of Michigan, had quickly lost that role envisioned for it by Augustus Woodward and had become a constitutionally autonomous institution of higher education. The growth and prestige of the University had convinced many that the constitutional status of the Regents as a "body corporate" was the vital factor in providing excellence in higher education in Michigan. By the turn of the century five additional colleges and universities had been established, and by 1960 Michigan had nine four-year colleges and universities. The major educational problem facing the Michigan Legislature by this time was the financial needs of these institutions. In a decade that promised to see higher education enrollments and costs soar, the legislators were looking for new ways of both financing and governing the state's system of higher education. The emerging need was for planning and coordination. The issue was whether it was to be voluntary or by state control.

The Coordination of Public Higher Education

The development of the powers, organization and functions of the State Board of Education related to higher education during the post World War II period was

also influenced by demographic and economic factors in Michigan. Three factors were most significant. The first was the rapid rise in enrollments in higher education immediately following World War II. The second was the rapid rise in elementary and secondary enrollments during the decade of the fifties. Finally, it was the arrival of these students in the decade of the sixties at the college and university gates that brought tremendous economic pressures on the people of Michigan and the general governmental agencies, the legislature and governor, to find more effective and efficient ways of financing and governing higher education.

The post World War II period, under the impetus of the "G. I. Bill," saw enrollments in all institutions of higher education in Michigan go from the 1943 war-time low of approximately 30,000 students to a peak of 101,390 in the fall of 1949. Public elementary and secondary school enrollments increased from just over one million in 1950 to one and one-half million in 1958 and to two million by 19622. By 1958 there were 143,962 students enrolled in all Michigan higher educational institutions and this

John Dale Russell, <u>Higher Education in Michigan</u>:

A Final Report (Lansing: Michigan Legislative Study Committee on Higher Education, September, 1958), p. 14.

²Michigan Statistical Abstract (1968), p. 61.

number had more than doubled to 295,905 by the fall of 1966.

The political and educational leaders of Michigan were aware of the possible changes that this post war boom in higher education might bring in the organization and control of Michigan's system of higher education. leaders, including the State Board of Education members, were concerned not only with the internal problems occasioned by enlarged enrollments but by the external implications of increased costs faced by the legislature and taxpayers of the State of Michigan. From 1955-1962 the two groups that were most active in rethinking the organization and functions of higher education in Michigan were the presidents and boards of the public institutions of higher education and the state legislature. Each group sensed that some new patterns of coordination and control of higher education were needed if the state of Michigan was to administer and finance massive higher education for its youth. The issue was what type of coordination, voluntary or "by law" through a state central agency, was to be the pattern in Michigan. The issue was of such importance that its resolution became a major effort of both the legislature and the universities.

The Michigan legislature faced up first to the task of meeting the needs of higher education. In 1955, it

¹Ibid., p. 80.

created a joint House-Senate study committee of ten members to "conduct a survey of higher education in Michigan."

This Michigan Legislative Study Committee on Higher Education employed John Dale Russell as Director of the Survey. From June, 1956 through September, 1958 the Committee held twenty-two meetings and prepared a Preliminary Report, a Final Report, and twelve supporting Staff Studies. Four of these volumes, the Preliminary Report, the Final Report, and Staff Studies 11 and 12 contained recommendations to the Legislature on the coordination and control of higher education in Michigan.

The <u>Preliminary Report</u> raised the issue of whether a state central agency should coordinate and/or control public higher education.

The preceding discussion has emphasized the dynamic character of higher education in Michigan. . . . Although the recent developments for the most part seem to be in the right direction, it must be noted that they have occurred without any conscious planning on the part of any central agency that has regard for the total services of higher education in Michigan, or that has particular concern about the problem of obtaining the necessary supporting funds for such services. effect, the State is confronted with something that has already been brought to a rather complete stage of development by the authorities of an individual institution, without any definite cognizance of the situation by any central authority of the state. The Legislature is then in the position of having to find funds to support developments in the planning of which it had no part. . . . It would seem advantageous for the State to have some agency that is concerned with

Senate Resolution No. 30., Michigan Legislature, 1955.

the over-all development of higher education for the entire State. 1

The Russell studies support the idea that educational functions move from general to special governance at the time they become too complex or controversial for the general governance to carry out effectively or expediently. The number of public baccalaureate degree granting institutions in Michigan had grown from one at the time of the 1835 Constitution to three in 1850 to seven at the time of the 1908 Constitution. By 1958 there were nine public four-year institutions of higher education in Michigan. These nine institutions were controlled by six separate boards. Five boards had the responsibility for one institution each and the State Board of Education had responsibility for four institutions. This left the function of the coordination of the nine institutions of higher education with the general governing agency, the Legislature. In the Final Report Russell notes that:

Anyone who has observed the relations between the Michigan institutions of higher education and the Legislature during recent legislative sessions cannot fail to be impressed by the need for such coordination. It is very clear that the Legislature and its committees have no very good way of estimating either the total needs of the State for higher education or the needs of the individual institutions for support. This is not a criticism of the Legislature or its committees, for they have done remarkably well, considering the limited data and analyses available upon which to make

Russell, Preliminary Report, p. 34.

determinations of appropriations and other matters affecting the institutions. 1

In a supporting study, Russell placed the coordination function with the Legislature:

As the situation now exists, each of the six boards has control over its own policies, and determines the budget that will be presented to the State fiscal authorities and the Legislature in the support of request for appropriations. No coordinating agency has been set up, either officially or informally, to assist the Legislature and the State fiscal authorities in determining the amounts to be appropriated to each of the nine State-controlled institutions of higher education in Michigan. The Legislature itself is the only effective coordinating agency. In making its decision about the amounts of money to be appropriated to each institution, the Legislature must weigh the various kinds of programs maintained and the relative needs of the institutions for supporting funds. actual practice the final determination of the appropriations is the result of an extensive and intensive lobbying activity by the individual institutions, each on its own behalf [emphasis added].2

Russell then summarizes the implications and possibilities related to the issue of coordination of Michigan higher education.

In summary on the major point of the necessity for coordination, it may be said that coordination of some sort is inevitable in any State system of higher education composed of two or more institutions. The only questions are, who shall do the coordinating and how shall it be done. It can be left chiefly to the Legislature, as it has been in the past in Michigan. . . . It can be left to voluntary action by the institutions themselves. It can be delegated to some central State agency specially designated for the purpose. 3

Russell, Final Report, p. 165.

Russell, Control and Coordination of Higher Education in Michigan, Staff Study No. 12, p. 23.

³<u>Ibid.</u>, p. 39.

In 1958 Michigan had not two, but nine, institutions of higher education with six separate boards of control. The legislature faced not only the immediate task of evaluating the requests of, and making appropriations to, these six boards but it had to be ready for the increased needs of these boards in the next decade. It was an appropriate time to shift the function of coordination of higher education to some central state agency of special governance.

The <u>Final Report</u> of the Survey of Higher Education in Michigan made forty-five recommendations to the Michigan Legislative Study Committee in September of 1958. Recommendation 36 urged that "the Legislature take immediate steps to create and establish a board for the coordination of the State-controlled program of higher education in Michigan." In the section of the Report that developed this recommendation, the comment was added that "if a general revision of the Constitution is undertaken . . ., it might be well to consider the recognition of such a Board in the revised Constitution, but the reference should be in very general terms."²

As events in Michigan did develop, the people of the state authorized the calling of a constitutional convention just two years after the publication of the <u>Final</u>

Russell, Final Report, p. 256.

²Ibid., p. 168.

Russell recommendations became an influential part of the discussions concerning higher education at the convention.

While the members of the Michigan Legislative Study Committee on Higher Education were getting advice and recommendations from the Russell Committee reports other parties with a vital stake in the future of higher education in Michigan were seeking to meet the need for coordination through voluntary means. The presidents of the public four-year institutions had formed the Michigan Council of State College Presidents in 1952. In 1957, stimulated no doubt by the Legislative Study Committee, the presidents were joined by the board members of their institutions in a second organization, The Association of Governing Boards and Presidents. A third organization, the Michigan Coordination Council for Public Higher Education, was formed late in 1961 during the initial months of the Constitutional Convention.

The primary purpose of the three organizations is given in the January, 1962 issue of the Bulletin of the Michigan Council of State College Presidents. The title of the lead article, "Voluntary Coordination of Autonomous Universities and Colleges in a State System of Higher Education," provided evidence that the nine university and college presidents were aware of the growing public pressures for a more effective system of higher education in Michigan. Excerpts from this bulletin summarized

briefly the formation, purpose, and viewpoint of these organizations.

The Michigan Council of State College Presidents exists for the purpose of accomplishing <u>liaison</u> and cooperation among the nine state institutions of higher education.

First called together for this purpose in January 1947 by Alexander G. Ruthven, then President of the University of Michigan, the presidents have gradually strengthened their organization and increased its effectiveness.

Bi-monthly meetings are held regularly and with full attendance. . . In July 1961 the Council established a central office . . ., with a full-time executive director at work.

The object is to provide Michigan's great statewide system of public higher education with central staff services, which will in time make possible a ready flow of up-to-date data as well as historical information about each of the institutions . . .

The people of Michigan are entitled to a statewide service of information regarding public higher education... from the several institutions... on a reasonably comparable basis. This in itself will always be difficult in a system as large, flexible, and complex as Michigan's system is. But these qualities of flexibility and diversity are just what make Michigan's system great; and no one wants to replace them with rigidity and regimentation.

The constructive work of the Michigan Council of State College Presidents is of interest throughout the nation. This state is pioneering in the very important task of continuing the development of a flexible and vigorous statewide system of public higher education, and avoiding the unnecessary smothering of institutional initiative by rigid coercive control. 1

Each of these three organizations included all nine of the presidents of the institutions of public higher

Bulletin of the Michigan Council of State College Presidents, No. 1 (Lansing: January, 1962), pp. 102.

education. The timing of the creation of the second organization, The Association of Governing Boards and Presidents, coincided with the Survey of Higher Education in Michigan. The members of this Association were probably aware that the Final Report would recommend that the legislature create a coordinating board for higher education with possible future constitutional status. third organization, a Coordinating Council, came into existence concurrently with the Michigan Constitutional Convention. There is little doubt that the pressures of the legislature on higher education and the political reality of constitutional coordination and control of higher education by a State Board galvanized the power structure controlling the institutions of public higher education into action to insure "voluntary coordination of autonomous institutions."1

Lyman A. Glenny, after completing a nation-wide study on state planning and coordination, wrote that "the new coordination did not arise out of foresight by educators but from demands of legislators and governmental agencies for more effecient use of public monies. wanted to eliminate wasteful duplication of programs resulting from competition among state institutions, to facilitate realistic and scientific budget requests, and to establish the rationale for developing new institutions and campuses. In attempting to protect the integrity of their own institutions, educators until recently generally have opposed increased coordination, particularly through new state commissions and boards with legal power." Lyman A. Glenny, "State Systems and Plans for Higher Education," in Emerging Patterns in American Higher Education, edited by Logan Wilson (W shington, D.C.: American Council on Education, 1965), p. 87.

James W. Miller, President of Western Michigan
University, agreed in an article written in 1965, that
outside forces prompted the actions of the public university presidents in the area of voluntary coordination.
Miller stated "It became increasingly clear in the late
fifties that some form of permanent staff was needed if the
council was to pursue a sustained and systematic course of
activity leading to a program of cooperation and coordination which would satisfy the member institutions as well
as state legislators, executive officials, and the public."

By 1961 the issues involved in the coordination or control of higher education had become larger than any one institution or legislature. They had become a part of the larger set of issues that the citizens of Michigan would decide in the coming constitutional convention.

Now, after more than a century of constitutional status, the central education agencies of Michigan were back at the place of their origin, a Michigan constitutional convention. The Office of the Superintendent of Public Instruction had been created at the 1835 Convention as the first such constitutional office in the American states. The University of Michigan and the State Board of Education had been given constitutional status in the 1850

lames W. Miller, "Voluntary Cooperation and Coordination of Higher Education in Michigan," in Emerging Patterns in American Higher Education, edited by Logan Wilson (Washington, D.C.: American Council on Education, 1965), p. 166.

Convention. Each of these had been created to fill a specific need or function of concern to the Michigan citizens of that day.

The time had come for a new generation of Michigan citizens to heed the words of advice that Jefferson, whose pen had made Michigan a Territory, had written at age 82 to a friend:

We have not yet so far perfected our constitutions as to venture to make them unchangeable. . . . A generation may bind itself as long as its majority continues in life; when that has disappeared, another majority is in place . . . and may change their laws and institutions to suit themselves. 1

A new generation in Michigan would now determine the powers, organization and functions of the Michigan agencies of special educational governance to suit themselves.

Letter to John Cartwright, June 5, 1824, as cited in Jefferson Himself: The Personal Narrative of a Many-Sided American, edited by Bernard Mayo (Charlottesville: The University Press of Virginia, 1970), p. 338.

CHAPTER III

THE CONSTITUTIONAL CONVENTION OF 1961-1962

The fifth Constitutional Convention in Michigan's history was gaveled to order by the Secretary of State at high noon on Tuesday, October 3, 1961 in the Lansing Civic Center. The 144 delegates, 99 Republicans and 45 Democrats, took the oath of office administered by the Chief Justice and set about to revise or rewrite a new charter of government for the State of Michigan. Each of the 144 delegates had been elected from either a senatorial or representative tive district from among 1,100 Michigan citizens who had entered their names in the July 25, 1961 Constitutional Convention primary election. 1

In a state which had a majority of its voters registered with the Democratic party the Constitutional Convention election process had resulted in a Convention with a two to one Republican majority of delegates. One explanation offered was that leading Democrats had

lalbert L. Sturm, Constitution-Making in Michigan, 1916-1962, p. 41.

expressed "more generalized hostility to con-con" in the earlier efforts to call such a convention but the same author asserted that "the fact remains that the Republican convention candidates were generally of greater prestige and better known in the state than those of the Democrats."

The Detroit Metropolitan area sent 56 delegates, with 41 of these Democrats. Of the 15 Republicans, George Romney, who had led the drive for non-partisan selection of delegates, was the most prominent Detroit area Republican. The remaining delegates were evenly divided among cities of over 44,000 people, smaller cities, and areas with no city of 10,000. This last group of 24 Republicans and one lone Democrat was led by former state senator Edward Hutchinson and former state treasurer Hale Brake.

While the Convention was called to order at noon on October 3, 1961 the real work of the delegates had already begun. Each of the two political parties had caucused prior to the start of the convention to organize their leadership and chart their positions. It was at the preconvention meeting of the Republican delegates that the

Carolyn Stieber, The Politics of Change in Michigan (East Lansing: Michigan State University Press, 1970), p. 21.

²Sturm, Constitution-Making in Michigan, 1916-1962, p. 45.

decisions were made on the leadership of the convention. 1 The leading candidates for the presidency of the convention were George Romney, spokesman for the liberal Republicans and Edward Hutchinson, conservative spokesman. James Pollock, well-known political scientist at the University of Michigan, was a possible compromise choice. Four candidates were nominated for the presidency at the Republican caucus on September 22-25, 1961. These were Romney, Hutchinson, Pollock, and John Hannah, President of Michigan State University. No candidate received a majority of the votes on the initial ballet. Hutchinson received 35 votes, Romney 29 votes, Pollock 17 votes, and Hannah 14 votes. On the fifth ballot Hutchinson had reached 45 votes, five short of the required 50 votes necessary to win. With a deadlock apparent a fifth candidate was nominated, Stephen Nisbet, and entered on the sixth ballot. On the seventeenth ballot the delegates elected Nisbet as the compromise candidate for president of the convention and agreed on Romney, Hutchinson, and one Democrat as convention vice-presidents.

With the pre-convention politics completed, the first order of business for the Convention delegates was to confirm officially the caucus decisions. Stephen

¹ From the Minutes of the Republican Pre-Convention Meeting, September 29, 1961. James Pollock papers, Michigan Historical Collection, Ann Arbor, University of Michigan.

Nisbet, was elected president of the convention; Romney, Hutchinson and Tom Downs, leader of the Democratic delegates, were confirmed as the three convention vice-presidents.

The selection of Nisbet as president of the convention was of importance for the issues related to education at the convention. Nisbet had just completed eighteen years as a member of the State Board of Education in Michigan, a good omen for those who wished to see its powers and status continued and strengthened. Nisbet, as president of the convention, had the important assignment of selecting chairmen for the convention committees as well as making final assignments of delegates to all committees.

Committee chairmen were appointed by Nisbet with an eye to the central role that these assignments would play in the success or failure of the convention. Sturm reports that, according to Nisbet:

Major criteria employed in choosing committee heads were: open-mindedness on the subject matter of the convention, ability to stimulate discussion and to elicit response, skill in effecting compromises and resolving differences, and ability to prepare, present, and defend a report on the floor of the convention. Moreover, there was an effort to avoid appointing specialists or persons with a particular point of view in the various substantive fields. The general stature of delegates and political considerations also entered into the choice.

Most of the prominent Republicans who had been mentioned frequently in preconvention discussion as probable leaders of the convention were named as committee

chairmen. These included, particularly, delegates Pollock, Hannah, Martin, Brake, and Bentley. 1

The Role of the Education Committee

became the focal point for the solution of the major problems in education that faced the citizens of Michigan. The Constitutional Convention had provided the opportunity for a new generation of Michigan citizens to review all areas of public life, including education, and propose new solutions. The groups who had maintained a continuing interest in Michigan education saw the Convention as the appropriate time to have their ideas incorporated into the very fabric of the new State constitution.

The organization of the constitutional convention in 1961 continued the emphasis of previous conventions on education as an important function of state government. A committee was established to study the problems of education and propose recommendations to the convention for their discussion and adoption. Each of the three preceding conventions that had produced new constitutions had included a committee to study education. These committees had enlisted the interest and service of some of the more able convention delegates. The 1961-1962 Education Committee

¹Sturm, Constitution-Making in Michigan, 1916-1962, p. 74 as reported from an interview with President Nisbet, March 19, 1962.

was no exception to this pattern of interest and service. The committee consisted of 21 of the 144 delegates to the convention. Alvin Bentley, former United States Congressman, was its chairman and its two vice-chairmen were George Romney, President of American Motors, and Adelaide Hart, able spokesman of the Michigan American Federation of Teachers.

Alvin M. Bentley, Republican from Owosso, had been selected by Nisbet as the chairman of the Education Committee. Bentley, age 43, was one of the younger leaders at the Convention. He had already served eight years as a Michigan representative to Congress and had been a candidate for the U.S. Senate in the 1960 election. Nisbet had selected Bentley as chairman of the Education Committee for his ability to arbitrate differences and to expedite the work of a committee.

There had been no particular pre-convention interest on the part of Mr. Bentley in the educational issues. The League of Women Voters had polled all the candidates for delegate positions in June. Bentley had returned the questionnaire and indicated that he felt the most important issues before the convention were (1) strengthening local government, (2) legislative reapportionment, (3) strengthening the executive and legislative branches of government,

¹ Interview with Alvin M. Bentley, August 23, 1966.

(4) state financial reform, (5) local taxation, and (6) judicial reform. There had been no mention of education. The same questionnaire had requested candidates to state what they personally wanted to see included in a new constitution. Bentley's reply was:

A shortened and simplified state constitution with more discretionary powers vested in both our state executive and state legislature . . . preservation of a bicameral legislature. . . . Both state and local governments should be provided with the needed sources of revenue. . . . The executive branch of our state government should be given more responsibility. I want to see a stronger and healthier atmosphere in both our state and local governments for many reasons, including the need to resist the growing encroachment of the Federal government in the fields of state and local government, a trend with which I have become extremely familiar. 2

Bentley's interest in a stronger executive branch of government was also evident in that his second major committee assignment at the convention was with the committee on the executive branch of government. In both the work on the education committee and the executive branch committee Bentley labored for, and voted on the side of, the positions that would strengthen the role of the governor. Because of his membership on both of these committees Bentley became the primary person in coordinating the decisions made by both committees on the roles

Candidates Questionnaire for Constitutional Convention Delegates Primary Election, July 25, 1961 (Owosso, Mich.: League of Women Voters of Owosso, Michigan, June 30, 1916).

²Ibid.

that the governor, the State Board of Education, and the Superintendent of Public Instruction should have in the new constitution.

Twenty-one delegates, fourteen Republicans and seven Democrats, were selected as the Education Committee of the Convention. Nine members of the committee were, or had been, employed as educators. Two delegates had experience as members of boards of education. Four of the committee members had close affiliations with higher education in Michigan. Dr. John Hannah was president of Michigan State University. Dr. Charles Anspach was President emeritus of Central Michigan University. Mr. Charles Follo was an assistant director of the University of Michigan extension service and Roscoe Bonisteel had served thirteen years, 1946-1959, as a member of the Board of Regents of the University of Michigan. Five committee members had public school experience. They were Vera Andrus and Frank Balcer, both retired teachers, Carl Spitler, a retired Superintendent of Schools, and Jack Faxon and Adelaide Hart, both Detroit teachers. In addition, Edward Douglas, an attorney from Detroit had taught in the Detroit Public Schools. Another attorney, Dr. Bert Heideman had a doctorate in

Biographical data taken from information contained in the "Pictorial Record, Delegates," Official Record, State of Michigan Constitutional Convention, Volumes I and II (1961). Committee appointments recorded on pp. 148-49.

political science from the University of Michigan and had done some teaching at the college level.

The Education Committee attracted its share of the better known delegates at the Convention. In addition to the chairman, Bentley, the Committee included George Romney, Chairman of American Motors, Dr. John Hannah, President of Michigan State University, Dan Karn, former Chairman of Consumers Power Company, Dr. Charles Anspach, former president of Central Michigan University, and Miss Adelaide Hart, a Detroit teacher and leader in the Detroit and Michigan Federation of Teachers organizations. The education committee had three women, Andrus, Conklin, and Hart, and eighteen men. Six of the members were sixty-five or older. Four delegates were under age forty. Jack Faxon, age 25, had the distinction of being the Convention's youngest delegate. Chairman Bentley was one of the younger members and leaders of the committee and the convention. Bentley had been active in forming a pre-convention committee of ten Republicans and five Democrats, including Tom Downs, to quarantee fair play in the organization of the convention. This group of fifteen became, in large part, the Permanent Committee on Organization and Rules which established the ground rules for the selection of convention officers and committees. One political commentator during the opening week of the convention commented on Bentley's future at the Convention and in Michigan politics.

Most of the candidates are not trying to build a political image for the voters in their home district.

One of the exceptions, of course, is former Rep. Alvin M. Bentley of Owosso.

Bentley will be building Bentley while he's building a new Constitution.

He hopes the voters will send him back to the Potomac. 1

Later Bentley confirmed that "it is hardly a secret, however, to say that if the new Nineteenth Congressional District seat is at large I would be extremely interested.

The Education Committee organized into four subcommittees to carry out its functions. The four subcommittees were (1) Higher Education, (2) Elementary and
Secondary Education, (3) School Finance, and (4) Libraries
and Other Provisions. Each member of the Education Committee served on one sub-committee and five members served
on two each. The Higher Education sub-committee had six
members. Roscoe Bonisteel, a lawyer and former Regent of
the University of Michigan served as chairman. John
Hannah, President of Michigan State University was a member
as was Charles Follo, an employee of the University of

¹Ray Courage, <u>Detroit Free Press</u>, October 8, 1961.

Letter to Ulysses Boykin, February 23, 1962.

^{3&}quot;Committee Synopsis: Education Article of the Constitutional Convention" (mimeograph), Alvin Bentley Papers (Ann Arbor, Mich.: University of Michigan Historical Collection).



Michigan. Other members were Vera Andrus, an alumna of the University of Michigan, Theodore Brown, a former student at the University of Michigan, and Anne Conklin. The subcommittee on Higher Education included three members closely associated with careers in Michigan higher education. The largest sub-committee was Elementary and Secondary Education with George Romney as chairman. This committee would make recommendations on the future of the State Board and the Superintendent. The fact that Romney, one of the vice-presidents of the Convention, chose this as his major area of interest was in all probability related to his future political interests as governor and the important place education had in that future.

The sub-committee on School Finance had as chairman Keyes Page, a tax analyst from Flint. Its other four members included Dan Karn, former President of Consumers Power Company, Allen Rush, a farmer, Sidney Barthwell, a Detroit pharmacist, and Roscoe Bonisteel. The last sub-committee, Libraries and Other Provisions, had Vera Andrus as chairman and included Bert Heideman, an attorney. The other three members, Brown, Faxon, and Kuhn, were each serving on other sub-committees.

In an assessment of the effectiveness of the individual members of the Education Committee made by Chairman Bentley in 1966 he commented on the "strong

higher education block." He listed specifically Hannah, Bonisteel, Follo, and Heideman with the last three designated as strong supporters of the University of Michigan. Bentley characterized George Romney as "the most vocal member" of the Education Committee with a primary interest in "a strong State Board of Education." Romney saw this as supporting a strong executive and urged that "the State Board of Education be appointed by the Governor." Bentley was particularly impressed with the excellence of the work of H. Carl Spitler, member of the sub-committee on Elementary and Secondary Education and a former superintendent of schools. Singled out for his effectiveness and influence at the convention was Leslie W. Richards, also a member of the Elementary and Secondary Education subcommittee who was serving, at the time the Convention was in progress, as the President of the Michigan Association of School Boards.

The Committee on Education made a serious effort to gain information and ideas from as many organizations and individuals as possible. Public hearings were scheduled for twenty-six days in the first three months of the convention. Selected individuals representing organizations with a particular interest in the education provisions of the constitution were invited to appear before the committee

¹ Interview with Alvin M. Bentley, August 23, 1966.

² Ibid.

at the Lansing Civic Center. All sessions of committees and the convention proper were open to the press and public.

The Committee on Education made a special effort to obtain information and opinions from a cross-section of Michigan citizens by scheduling four of its public hearings away from the Civic Center. Two sessions were held in November at the Kellogg Center on the campus of Michigan State University and two additional sessions held on December 1 and 2 in the Upper Peninsula on the campuses of Northern Michigan College of Mining and Technology at Houghton. At the Kellogg Center hearing twenty-seven persons presented personal or organizational viewpoints. In the Upper Peninsula hearings thirty-eight individuals presented views. At the Civic Center sixty-eight individuals appeared before the committee. In all, 133 individuals appeared before the education committee. Only one individual, Dr. Lynn M. Bartlett, Michigan Superintendent of Public Instruction, made more than one appearance before the committee. He presented both the first and last words of advice entertained by the committee. His appearance before the committee on October 25, 1961 opened the public hearings and his second appearance on January 4, 1962 closed the schedule of public hearings. This was prophetic in that the constitutional status of his office became the major focus of controversy in the discussions

and decisions of the education committee in its work in the early months of 1962.

A brief analysis of the individuals and organizations represented in these hearings provides some insight into what groups had a keen interest in the constitutional status of education in Michigan. Because the majority of the Education Committee hearings were for invited speakers the hearings also provided some clues as to those individuals and organizations the members of the Education Committee deemed most important to hear.

In the scheduled hearings 83 of the 133 persons that appeared were employed by a private or public institution of education. Only five of these people represented private education. Representatives of public education included forty who were employed by institutions of higher education. Elementary and secondary education was represented by 35 speakers, 25 of which were superintendents of local school districts, including Dr. Samuel Brownell of Detroit. Of the remaining speakers, ten were members of professional education associations; eight of these affiliated with the Michigan Education Association while just two represented the Michigan Federation of Teachers. It is of some interest to note that the representatives of the Michigan Education Association made their presentation in a session set aside for them at the Civic Center while the Presidents of the Michigan and Detroit Federation of Teachers were among the twenty-five presentations heard

in the two sessions held at Kellogg Center. In the multitude of words that were presented to the Education Committee, Bentley, five years later, gave little or no credit to the difference that the testimony at the public hearings made in the decisions of the Education Committee. Seven of the public college and university presidents had appeared before the Committee and, in Bentley's words, "pleaded for constitutional status for the institutions of higher education." An eighth president, John Hannah, in characteristic fashion, made his views and influence constantly available by becoming a delegate to the convention and a member of the Education Committee. In turn, President Hannah made available to the Education Committee the services of Dr. William H. Roe, whose contributions Bentley characterized as "very good."

In a letter to Dr. Roe on April 18, 1962, Bentley, thanking him on behalf of the Education Committee, expressed

how much we valued your work and assistance during the many weeks when we were struggling to shape our proposals into a form for presentation to the Convention. I am not exaggerating when I say that we could well have found it impossible to do the job that we did . . . without your advice and counsel.²

¹ Interview with Alvin M. Bentley, August 23, 1966.

²Twenty years earlier Roe had written his master's thesis at the University of Michigan in a related area. The thesis was "The Functions of Education as Interpreted by Our Courts," 1942.

Of major assistance to the committee in its work were the reports that had been prepared prior to the Convention by the Citizens Research Council and the Constitutional Convention Preparatory Committee. Evidence of their use was the Chairman's well-marked copies that later became a part of the Education Committee records. One of the contributions of these reports was the comparisons the information contained in them provided as a perspective on developments in the administration of state education outside of Michigan.

In a report on elementary and secondary education
Leu reported that 28 states appointed the chief state
school officer and the remaining 22 were elected. Of the
28 appointed superintendents, 23 of them were appointed by
the State Board of Education. The trend had been in the
direction of appointed superintendents. From 1945 to 1959
nine states had changed from elected superintendents to
appointed. A second trend had been to have the state
boards of education rather than the governor appoint the
superintendent. Five states had made that change between
1947 and 1959. In his report Leu urged that the Convention change the constitution and make the Office of the

Donald J. Leu, "Elementary and Secondary Education and the Michigan Constitution," Education and the Michigan Constitution (Lansing: Constitutional Convention Preparatory Commission, September, 1961) pp. 19-21.

Superintendent an appointive position by the State Board of Education.

Leu also supplied comparative data on the status of state boards of education throughout the fifty states.

Forty-eight of the states had state boards with Illinois and Wisconsin the exceptions. There were thirty-one of the states with state boards of education appointed by the governor. Ten states, including Michigan, had boards elected by the people. The Board of Regents of the State of New York were elected by the legislature. Six state boards were composed of members selected ex officio or in some other arrangement. The report contained no recommendation favoring either the appointment or the election of members of the Michigan State Board of Education. 2

The report by the Citizens Research Council reviewed the status of the Office of Superintendent and state boards of education with results similar to the Leu report. As a result of their studies the Council suggested that

Consideration might be given to appointment rather than election of the superintendent of public instruction and strengthening the state board of education by assigning to it the powers and duties now vested in the superintendent, with the superintendent serving as the chief executive-administrative officer of the board.³

¹<u>Ibid.</u>, p. 5. ²<u>Ibid.</u>, pp. 19-21.

^{3&}quot;Education," A Comparative Analysis of the Michigan Constitution, Vol. II, Report No. 208 (Detroit: Citizens Research Council of Michigan, October, 1961), p. 6.

The nation-wide picture on state boards for higher education was more difficult to grasp. One of the study reports prepared by John Dale Russell was on coordination of higher education. In 1960 the Office of Education released a study, State Boards Responsible for Higher Education. This report was used by both the Citizens Research Council and the preparatory reports by the Constitutional Convention Preparatory Commission. The Office of Education listed 209 State boards operating in 1959. The report divided these into four types and found that "108 . . . were classified as governing boards; 65 as governingcoordination boards and 36 as coordinating boards or 'other'" [emphasis added]. Michigan had six boards with five listed as "governing" and one, the State Board of Education, as "governing-coordinating." Between 1950 and 1959 "seven governing boards were created, seven coordination boards, and eight 'other' boards." Included in the "other" category were four State Boards of Education that had been given responsibilities for higher education. Dunbar, strong advocate of "constitutional autonomy," which he defined as "specifically provided for in separate

¹ John Dale Russell, <u>Control and Coordination of</u>
<u>Higher Education in Michigan</u>, Staff Study No. 12 (Lansing:
<u>Michigan Legislative Study Committee on Higher Education</u>,
July, 1958).

²S. V. Martorana and Ernest V. Hollis, State
Boards Responsible for Higher Education, U.S., Department
of Health, Education and Welfare, Office of Education OE53006 (Washington, D.C.: Government Printing Office),
pp. 15-17.

sections of the Constitution and [not to] be abolished by the legislature," did finally conclude in his preparatory report that "some consideration should be given to following the recommendation of the Russell Report and establishing, perhaps by constitutional provision, a coordinating board which might be called the State Board for Higher Education."

After all the speeches had been heard and the reports read, the members of the Education Committee still had four basic questions to resolve:

- What should be the constitutional status and relationship of the State Board of Education and the Office of the Superintendent of Public Instruction?
- What should be the responsibilities of the State Board of Education for elementary, secondary, and higher education in Michigan?
- 3. Shall there be one constitutional board of control for all public colleges and universities?
- 4. Shall there be constitutional status for some or all public institutions of higher education?

The procedure used by the Constitutional Convention to arrive at answers to the questions and issues raised

Willis F. Dunbar, "Higher Education," Education and the Michigan Constitution, Study No. 11 (Lansing: Constitutional Convention Preparatory Commission, 1960), p. 20.

was to invite delegates to submit proposals to the convention on any issue of interest and concern to them.

Proposals could be submitted by individuals or by two or more delegates jointly drafting and sponsoring a particular proposal. In turn, these proposals were sent to the appropriate committee and sub-committee for discussion, debate and recommendations. These proposals were then clustered by area or issue into a single Committee Proposal. Committee proposals receiving committee approval went to the convention floor. Minority reports could be filed and submitted to the Convention. Each successful proposal was discussed and debated at three separate readings before approval by a majority of the delegates made it a part of the proposed constitution to the people of Michigan.

From October 3, 1961 until February 2, 1962 there were almost one thousand proposals submitted. Of this number, seventy-four were submitted directly to the jurisdiction of the Education Committee. In addition, twenty-eight other proposals related to eduation were submitted but were the primary jurisdiction of another convention committee. Included were such matters as taxation, elections, executive and legislative functions. Fittingly enough, the first proposal submitted to the Convention was Proposal 1001 introduced by Claud R.

The source of this information is "Delegate Proposals to the Education Committee," University of Michigan Historical Collections, Alvin Bentley Papers (Ann Arbor).

Erickson under the title, "Proposal for election of nonpartisan State Board of Education." Of the 102 proposals submitted on education, ten of these were directly related to a state board of education for some or all of public education in Michigan. Twenty-one of the proposals, often sponsored by ten or more delegates, were provisions for separate constitutional boards for the public colleges and universities. This was the highest number of proposals for any one educational issue. Eight proposals were submitted concerning the Office of the Superintendent of Public Instruction. Combined totals of the proposals for the State Board and the Superintendent were eighteen in number. Financing of education in Michigan prompted the submission of ten proposals. If the number of proposals submitted was any accurate index of delegate concerns for education, the three primary issues were (1) constitutional status for boards of public institutions of higher education, (2) the status and relationship of the State Board of Education and the Superintendent of Public Instruction, and (3) financing Michigan public education.

As the work of the Convention developed, these three areas were the big issues discussed, debated, and acted on by the delegates. Two of these issues, higher education and the State Board-Superintendent status were the primary jurisdiction of the Education Committee. The Finance Committee acted on the proposals in that area. By January the major issues of the Education Committee were

incorporated into two main proposals, Committee Proposal 47 and Committee Proposal 98.

All individual Delegate Proposals submitted to the Education Committee were complied into just eight Committee Proposals. I Five of these Committee Proposals were approved by the Convention and comprise Article VIII of the 1963 Michigan Constitution. The two Committee Proposals that contained the major issues concerning education were Proposals 47 and 98. Proposal 47 was approved by the Education Committee on January 31, 1962 and was titled, "Elective State Board of Education and appointed Superintendent of Public Instruction provided." Proposal 98 was approved by the Education Committee on February 2, 1962 and was titled, "State-supported institutions of higher learning provided for." During the Constitutional Convention a number of questions, issues and actions occurred related to the two proposals of the committee just cited. The issues were the powers and proper relationships of the State Board of Education and the ten public institutions of higher education. The committee decisions and the Convention discussions and decisions on these two proposals will be discussed in some detail. The official proceedings of the 1961-1962 Constitutional Convention will be examined

Information on these proposals was from the
"Status of Committee Proposals," Alvin Bentley Papers,
University of Michigan Historical Collections (Ann Arbor).

to help ascertain the "spirit and intent" of the provisions contained in the constitution. Some principles used by the courts to construe and interpret the constitution will be of general interest in the analysis of these proposals.

To provide a background for this and the remaining discussions related to the implementation of this constitution and the subsequent legal opinions and court interpretations a brief summary of some of the principles underlying the construction of constitutions is presented here. The court cases that are the primary source of these principles of constitutional construction are found in American Jurisprudence, 2nd Edition, 1964.

The eight principles for construing and interpreting a state constitution applicable to this study are summarized here:

- A clearly state constitutional provision is to be followed.
- The intent of the framers of the constitution is to be carried out.
- No part or word of the constitution should be considered superfluous.
- 4. The language of previous constitutions, retained in the new constitution, retains the meaning attributed to it in the preceeding constitution.
- 5. The circumstances, conditions, and contemporary history at the time of the writing of a

constitution may be studied to ascertain the intent of the framers.

- 6. The proceedings of constitutional conventions and debates may be used to interpret constitutional provisions. 1
- 7. The reports or proposals of committees in the constitutional convention may be resorted to as an aid to interpretation.
- 8. The addresses of the constitutional convention to the people prior to its adoption are key sources of possible interpretations.

Article VIII: Education

The 1963 Michigan Constitution included a Preamble and twelve Articles. Article VIII covers education and in nine sections contains almost all of the provisions in the Constitution related to education. Some information on financing and elections is contained elsewhere but is not germane to this study. In general, Article VIII of the 1963 Constitution replaces Article XI from the 1908 document. Sections 3, 4, 5, 6, and 7 of Article VIII, are related to either the State Board of Education or to

One reservation is given concerning use of convention debates: "... the opinions of the individual members of a convention expressed during the debate, although occasionally referred to, are seldom considered as of material value as expressions of the view of the convention as a whole." American Jurisprudence, 2nd Edition, Constitutional Law Section 88.

higher education. The brief descriptive title from the Constitution distinguishes the thrust of each section.

- Section 3 State board of education; duties.
- Section 4 Higher education institutions; appropriations.
- Section 5 Controlling boards; University of Michigan, Michigan State University, Wayne State University.
- Section 6 Controlling boards; other institutions of higher education.
- Section 7 Community and junior colleges; state board.

Section 7 deals only with the junior and community colleges which differ in principle from the institutions granting baccalaureate degrees.

A brief description of the educational provisions of the 1963 Constitution related to the State Board of Education will provide an overview of the actions taken by the Constitutional Convention. These actions and provisions will then be analyzed in greater detail.

The State Board was retained from the 1908 Constitution but enlarged in membership, powers, and functions. This reorganized board was then given the duties of the Office of the Superintendent of Public Instruction which had included " . . . general supervision of public instruction in the state." The new Board was "vested [with] leadership and general supervision over all public education, . . . except as to institutions of higher education granting baccalaureate degrees . . . " [emphasis added]. The words leadership, over all, and except highlighted the

changes in the powers of the new State Board from those held by the former Superintendent. Perhaps the most significant changes in the 1963 Constitution that enlarged the powers and duties of the State Board of Education were the provisions to (1) "serve as the general planning and coordinating body for all public education, including higher education," and (2) "advise the legislature as to the financial requirements in connection therewith . . . " The terms "general planning" and "coordinating" are new in the 1963 Constitution and throughout Article VIII are used in a different sense than the term "general supervision," a term retained from the 1908 Constitution. Each constitutionally established board in Article VIII, Sections 3 through 6, was given "general supervision" of its respective agency. The State Board of Education alone is designated to be the "general planning" and "coordinating body" for all public education, including higher education.

Finally, only the State Board of Education was given the constitutional power to "advise the legislature as to the financial requirements in connection therewith" [of the general planning and coordinating powers].

In summary, the provisions related to the State Board of Education in Article VIII, Section 3 included:

 The State Board of Education was enlarged to eight members elected for eight-year terms.

- 2. The State Board of Education was given the powers and duties formerly held by the Office of Superintendent of Public Instruction.
- 3. The leadership and general supervision power of the State Board did not apply to higher education.
- 4. General planning and coordinating of all public education, including higher education, was the duty of the State Board.

A limitation on the powers of the State Board of Education for general planning and coordination was placed in the final provision of Section 3. This section states that "the power of the boards of institutions of higher education provided in this constitution to supervise their respective institutions and control and direct the expenditure of the institution's funds shall not be limited by this section" [emphasis added].

Sections 4, 5, and 6 of Article VIII treat the status and powers of the boards of the institutions of higher education provided for by the 1963 Constitution.

Section 4 applied to the institutions of higher education and their financial relationship with the legislature. The section stated that "the legislature shall appropriate moneys to maintain" ten named institutions and others established by law. The duty to "appropriate moneys," was added as a specific responsibility of the legislature.

This section of the new constitution made it obligatory that the legislature "be given an annual accounting of all income and expenditures" by each of the ten institutions. This provision had been applicable only to Wayne State University in the previous constitution.

Section 5 continued the existing constitutional language and status of the University of Michigan, Michigan State University, and Wayne State University by stating that the respective boards of each institution and their successors "shall constitute a body corporate." Section 5 also guaranteed that "each board shall have general supervision of its institution and the control and direction of all expenditures from the institution's funds" [emphasis added]. This is the language used in the previous constitution for the University of Michigan and, in part, for Michigan State University and Wayne State University. This indicated that the intent of the delegates to the Constitutional Convention was to preserve both the constitutional status and the internal powers that had been granted earlier to these institutions. Each of these three institutions was provided an elected board of eight members.

Section 6 provided identical constitutional status, duties and powers to each of the other seven college and university boards named in Section 4 and to any other institutions of public higher education established later by law. Each of these institutions was given an appointed board of eight members. Each of the constitutionally

created boards had identical status and powers. The only difference was that the three major universities had elected boards, while the other seven boards were appointed by the governor by and with the consent of the senate.

In effect, Section 6 transferred the powers and functions carried out under the 1908 Constitution by the State Board of Education for the four institutions under its control to each of the four boards established to govern these universities.

The major issue that confronted the delegates to the Convention centered around the proposed powers of the State Board of Education to be the "general planning and coordinating body for all public education, including higher education, [without] limiting the power of the boards of institutions of higher education provided in this [1963] constitution, to supervise their respective institutions and control and direct their expenditures." An analysis of the discussions, debates and decisions related to Section 3 follows. It is based on the official proceedings of the convention and the official report of the convention to the people. It is not the intent of this analysis to decide the constitutional meaning or ambiguities of these provisions, which are currently under adjudication in the courts, but to provide some background on the origins of these provisions.

The Proceedings of the Constitutional Convention

The proceedings of the 1961-1962 Constitutional Convention are reported in the Official Record, a two-volume work of some 3,500 pages. The Official Record contains only the proceedings of the Convention proper and not the discussions that were a part of the committee work. The official actions of the committees were brought to the convention proper in the form of proposals recommended by the committee to the convention and included in the Official Record.

The Education Committee, one of the major committees, had a membership of twenty-one delegates. No official transcripts of the sessions of the Education Committee were kept so the discussions of the committee proposals within the committee sessions themselves are not a matter of record. A log containing the minutes of the meetings of the education committee was kept. The proposals by the committee to the convention are available in the Official Record as well as minority reports filed and, of course, any discussion that took place on the proposals on the convention floor. The actions taken on each proposal and amendments are a matter of record and are often reported in a manner showing the names of those favoring and opposing.

Official Record, State of Michigan Constitutional Convention, 1961, Volumes I and II.

Two major education committee proposals contained the major changes of interest to this study. Proposal 47 was concerned with the powers and duties of the State Board of Education. It later became incorporated as Section 3 of Article VIII of the 1963 Constitution just reviewed. Proposal 98 applied to the constitutional status and powers of the ten public institutions of higher education including (1) the three major universities, (2) the other seven institutions, and (3) the community and junior colleges. A concise summary of the provision of these two proposals was published in the Con-Con Weekly Report, Number 8, July 25, 1962. While repeating much of the language of the Constitution this account also provides for the public a concise explanation of the purposes underlying these provisions. The summary published by the Weekly Report for each of these proposals is presented as an introduction to the analysis of the convention proceedings on each of these two proposals. The summary of Proposal 47 stated that:

A state board of education--increased from the present four to a membership of eight--is given leadership and supervision of all except higher education in Article VIII of the proposed new Michigan Constitution.

The enlarged board is also to serve as the general coordinating and planning agency for all public education, including higher education. It is to

¹Constitutional Convention, Public Information Committee, Ink White, Chairman, Con-Con Weekly Report, No. 8, Lansing, July 25, 1962.

advise the legislature as to the financial requirements of all state educational functions.

The eight members of the board are to be elected on a partisan basis for eight-year overlapping terms. The governor is to be a non-voting ex officio member of the board to help bring about a stronger link between the executive office and the state's educational system.

Under the terms of the proposed Article, the superintendent of public instruction will no longer be chosen at state-wide partisan elections. He will be appointed by the state board of education and will be the principal executive officer of the state department of education. 1

Proposal 47 was submitted to the convention on February 20, 1962 by the Chairman, Mr. Bentley. It included the phrases, later incorporated in the constitution, "There shall be established a State Board of Education which shall serve as the general planning and coordinating body for all public education in the state . . . " [emphasis added]. In the supporting reasons applicable to this section Mr. Bentley submitted the following:

The new state board is a symbol of partnership between the people and the state. As representative of the people, it embraces popular control, discourages use of education as a partisan tool, provides continuity of state-wide policies and programs, is a barrier to special interest group influences on the schools, and helps unify educational forces throughout the state.

It is considered the unifying and coordinating force for education within the state. The committee recommends that the board shall receive information from all the various levels of public education—elementary, secondary, higher and other public institutions providing instructional programs.

libid.

Such information shall be used in order that the state board of education may adequately consider and advise local school boards, governing bodies of colleges and universities, the legislature and the people as to the total needs of education in this state and make recommendations concerning their solution. 1

Mr. Bentley went on to report:

As far as the committee on education is concerned, Mr. Chairman, section a of Proposal 47 was adopted unanimously, as I recall, by our committee on education, and I believe I am speaking the sentiments of all members of the committee . . . when we regard this new state board of education as perhaps our most outstanding accomplishment of all our proposals for the new constitution in the field of education. . . For a more adequate and thorough discussion and explanation of this section of Committee Proposal 47, relating to the state board of education, I yield to the chairman of the subcommittee that handled this matter, the distinguished vice president of the convention, . . Mr. Romney² [emphasis added].

Romney then gave a rather lengthy explanation of which the following pertains to the issue under discussion--general planning and coordination.

The third thing it [Proposal 47] does is to enlarge the functions of the board. The new board of education is given leadership and supervision over education other than colleges and universities. . . . The [next] thing it does is to give this board overall planning and coordinating responsibility for all education. we have not had. . . . We have had a fragmented situation where segments of education have been operating quite autonomously, and for the first time through this overall board we set up a body that has general planning and coordinating authority. This means that this board is in the position to determine where community colleges should be located, . . . whether four year colleges should add additional departments, or whether universities should add postgraduate work. It gives this board the key position in recommending to the

Official Record, State of Michigan Constitutional Convention, 1961, p. 1189.

² Ibid.

governor and the legislature all the steps taken to meet our educational needs in the states.

. . . this board's functions are enlarged by making it a general review body of total fund requests for education . . . and submitting its recommendations on these requests to the governor and the legislature. . . Now this does not preclude separate universities from going directly to the legislature if they do not agree with the recommendations of the board. . . . I think it is important to know that this is an enlargement of the board. . . .

Now what are some of the things it does not do? . . . It does not interfere with the operating autonomy of the colleges and universities. . . . 1

One other convention delegate will be quoted concerning this issue, Dr. John Hannah, who had also been the Chairman of the Council of State College Presidents during 1961-1962. Mr. Bentley had requested that Dr. Hannah give his point of view concerning the extent of powers of the State Board of Education in its authority to coordinate all public education. Hannah's comments follow:

Now, the point I would like to make is the one that had to do with coordination . . . Committee Proposal 47. . . . The item I want to speak to is the authority that that board is given to coordinate all of the publicly supported education from the preschool kindergarten clear through the high schools, the colleges and the universities.

There has been a good deal of discussion in the press to the effect that this state sorely needs some sort of enforced coordination of our institutions of higher education . . if you approve the recommendation in Committee Proposal 47, the state board of education has the opportunity to coordinate, to give direction, to advise the legislature and the people of this state on the needs for education at all levels, including the most advanced levels, and—the key words—to advise

¹<u>Ibid.</u>, p. 1191.

with reference to the financial needs [emphasis added].

Which means, of course, that this state board of education, if it wants to, will be able to take over a very important role not only from the standpoint of coordinating programs and passing judgment of where new institutions should be created, where 2 year junior colleges might appropriately become 4 year colleges, whether programs on existing institutions might be instigated that are not there now; but they can go beyond that, of course, and determine what the relative financial needs are of these various institutions.

. . I certainly hope that the committee [of the whole convention] will go along with the education committee's recommendations with reference to the state board of education . . !

Delegate Bonisteel then directed these remarks to Hannah:

May I ask just a question of Dr. Hannah? I think he has answered the question. But you personally have gone over the provisions that we have submitted here in this report, and you are in entire agreement with the program and plan as outlined? I'm sure you said that, but in order to make no mistake about it--2

Dr. Hannah's answer was as follows:

I have no reservations at all. I signed the report for you, and I speak for the recommendations as they are . . . 3

From a reading of the transcript of the convention proceedings it would appear that the Education Committee specifically intended the State Board of Education to fulfill the function of coordinating all Michigan public education and make annual recommendations, including fiscal needs, to the governor and legislature. The committee attempted to make a distinction that preserved the

¹Ibid., pp. 1142-43. ²Ibid.

^{3&}lt;sub>Ibid</sub>.

institutional autonomy and power of each higher education institution in internal matters of supervision and control of institutional and appropriation funds while granting the State Board of Education power to recommend annual appropriations and significant changes in the programs of all public education, including the higher education institutions. One of the principles of constitutional interpretation reviewed was to ascertain the intent of the people who ratified the new constitution. A key source of such intent for the Michigan constitution was the report or "Address to the People," that the delegates were required to submit to the people prior to the vote on the proposed constitution. This report, titled What the Proposed New State Constitution Means to You, stated and explained each article and section of the Constitution. The explanation for Article VIII, Section-3, related to planning and coordinating stated:

It is proposed that the board be the unifying and coordinating force for education within the state and receive information from all the various levels of public education. Such information would be considered by the board in determining advice to local school boards, governing boards of colleges and universities and the legislature as to the total needs of education in this state. \(\frac{1}{2} \)

Support for this analysis of the intent of the provisions under discussion was found in an opinion of

Inchigan Constitutional Convention, What the Proposed New State Constitution Means to You: Address to the People, p. 78.

Attorney General Frank J. Kelley in a letter dated October 5, 1965 to Senator Edward J. Robinson. Senator Robinson had requested an opinion on the question, "May the legislature without a recommendation from the State Board of Education pass legislation setting up a state university or college?"

The Attorney General cited the constitutional grant of power to the State Board of Education to serve as the "seneral planning and coordinating body for all public education, including higher education." He then quoted the comments previously referred to from Delegates Bentley and Romney from the Official Record on pages 1189-1190. The Attorney General emphasized that "it must be observed that on first reading the express grant of power to generally plan and coordinate did not explicitly include higher education. This was added on second reading . . . 2 Delegate Bentley offered the following explanation in support of the amendment:

Mr. President, there are changes in this amendment. The first change is to reinsert the word "Leadership," which was removed by the committee on style and drafting. The committee on education felt very strongly that the function, or one of the primary functions, of the state board of education would be to provide leadership in the field of public education and we would hope that the convention would agree to

Quoted in the letter to Edward J. Robinson, Michigan Senate, dated October 5, 1965 from Frank J. Kelley, Attorney General, State of Michigan, p. 1.

²Ibid., p. 4.

reinsert this language as the very first word for the new proposal. With respect to the insertion in line 5 of "degree granting" before "institutions of higher education," the reason the committee on education felt this desirable was because there are institutions of higher education that do not grant degrees, and we desired to specify the exemption in this particular case of supervision on the part of the board of education only with respect to the institutions of higher education that do actually grant degrees. Finally, the insertion in line 8, after "education," of the 3 words "including higher education," would indicate higher education in all fields is definitely included in public education for which the state board of education is designed to serve as the general planning and coordinating body.

We feel that in all 3 cases, Mr. President, the insertion of these words more clearly spells out the intent of the committee on education. This first amendment was approved by the committee on education, as I say, only as recently as this noon, and we urge upon you the adoption of this committee amendment. I

The action of the convention is summarized by Mr. Kelley:

The amendment was adopted. Constitutional Convention Official Record, p. 2573. So amended, the pertinent language was approved on second reading on April 18, 1962, Constitutional Convention Official Record, p. 2579, and was not changed thereafter.

The Attorney General concluded his opinion to Senator Robinson by stating:

The constitutional history of Article VIII, Section 3 recited above indicated most clearly that the framers intended to repose in the State Board of Education the board authority to generally plan and coordinate all public education, including higher education...

An examination of the language employed by the framers of the Constitution and the people in ratifying it supports the same conclusion . . .

¹ Ibid., p. 7, quoted from the Official Record, p. 2573.

² Ibid.

Thus, it is clear that the State Board of Education has been granted broad powers by the people to provide for the systematic development of higher education in Michigan with the power to regulate and combine in harmonious action. The legislature cannot impinge upon this authority by providing for a new state university or college without the prior advice, determination and recommendation of the State Board of Education. 1

No provisions related to education caused more discussion and debate in the Constitutional Convention that the section of Proposal 47 just analyzed. In adding the words <u>leadership</u>, <u>general planning</u>, and <u>coordinating</u> to the powers of the State Board of Education the Education Committee and the Constitutional Convention had enlarged the powers and functions of the Board in areas new to Michigan constitutional and educational experience. The discussion and debate have continued throughout the first decade of the operation of the current State Board of Education.

Currently the State Board is involved as an Intervening Defendant in a case designed to clarify these terms as they relate to higher education in the courts. That part of the case involving the State Board of Education was filed by the Board on July 30, 1971 in the Circuit

^{1&}lt;u>Ibid</u>., p. 8.

THE REGENTS OF THE UNIVERSITY OF MICHIGAN, a constitutional body corporate; THE BOARD OF TRUSTEES OF MICHIGAN STATE UNIVERSITY, a constitutional body corporate; THE BOARD OF GOVERNORS OF WAYNE STATE UNIVERSITY, a constitutional body corporate, et al., vs. THE STATE OF MICHIGAN; ALLISON GREEN, Treasurer of the State of Michigan; GLENN S. VALLEN, JR., Controller of the Michigan Department of Administration and Budget Director of the State of Michigan, and MICHIGAN STATE BOARD OF EDUCATION, p. 29.

Court for the County of Ingham. The Board joined the State of Michigan, Office of Treasurer and the Department of Administration as defendants in a Complaint filed by the University of Michigan, Michigan State University, and Wayne State University in December 22, 1967. The major aspects of the case related to Section 5 of the Education Article involve the right of the universities to supervise their respective institutions and control expenditures of the funds. These provisions do not involve the State Board directly. The State Board of Education had joined the defendants as an Intervening Defendant in order to determine whether the plantiffs must receive the prior approval of the State Board of Education before developing new programs or expanding branch campuses. 1 These specific matters relate to the powers of the State Board for general planning and coordinating as related to higher education. These were the powers contained in Proposal 47 and subsequently adopted by the Convention as Section 3 of Article VIII.

In an Opinion of the Court by Circuit Judge
Marvin J. Salmon, dated December 6, 1971, the court stated
that "It is the opinion of the court that the State Board

¹In general, the brief submitted to the courts by the State Board of Education is based on the data contained in the Opinion of Attorney General Kelley to Senator Robinson and other supporting evidence from the proceedings of the 1961-1962 Constitutional Convention.

of Education <u>lacks</u> the authority to require plantiffs to obtain its approval before implementing any new programs or expanding branch campuses or departments" [emphasis added].

In general, the court held that the power of the State Board was advisory only. Any institution of higher education classified as a constitutional body corporate, was not required to conform to State Board advice. It was the primary position of the State Board in the briefs filed that the Board's "constitutionally imposed duty to plan and coordinate would be rendered virtually meaningless if it is denied the authority to require plantiffs to receive its prior approval of any new programs." 1

The response of the court to this opinion of the State Board of Education was to cite Delegate Romney's comments from page 1190 of the Official Record:

It is believed that this body will establish a stature, a prestige, that will enable it to be very influential in terms of its recommendations. It also means that it will give the board an opportunity to exercise the type of general planning and coordination control that I have previously indicated in that its recommendations should have a very important bearing on appropriations. Now, this does not preclude separate universities from going directly to the legislature if they do not agree with the recommendations of the board.²

The court then indicated that:

Although recognizing that plantiffs and the legislature could avoid the Board of Education, the delegates were of the opinion that the Board could still play an important role in planning and coordinating the

¹<u>Ibid.</u>, p. 28.

educational needs of the state. Thus, whether the Board's authority is rendered virtually meaningless is a matter more within the discretion of the Board than of this court. 1

The case was appealed by the defendants, including the State Board, to the Court of Appeals, Division 2, where the decision of the trial court was affirmed. The case is now before the Michigan Supreme Court.

While the provisions in Proposal 47 granting the State Board of Education the powers of general planning and coordination for all education were the primary concern of the delegates with a major interest in Michigan higher education, Section b of that proposal was the center of attention for those interested in the elementary and secondary schools. This section had incorporated the change long advocated by Edmonson and others that the elected Office of the Superintendent of Public Instruction be abolished and that the Superintendent become an appointee of the State Board of Education. The Superintendent would be the principal executive officer of the Department of Education

The major controversy in this area was a partisan issue among the members of the Education Committee and later on the convention floor itself. The Democratic members of the Committee, led by Adelaide Hart and Jack Faxon, were in favor of retaining an elected Superintendent in the

lbid.

general elections of the State. In recent state elections the Democrats had been successful in electing their candidates for statewide offices. Governor Williams had led this effort, and other state offices, including the Office of the Superintendent, had recently elected Democratic incumbents. The power of the Democrats was in statewide elections while the Republicans fared better in regional, particularly senatorial, districts.

Section b of Proposal 47 was approved in the subcommittee on Elementary and Secondary Education in midJanuary by a six to three vote of that nine-member group.

It passed the Education Committee on January 31, 1962.

Three members, Hart, Brown, and Douglas, filed a Minority
report to Committee Proposal 47 and advocated the statewide
election of the Superintendent rather than appointment by
the State Board of Education.

The convention approved
Proposal 47 on April 18, 1962 and it became Section 3 of
the Education article.

The die was cast. A three vote margin in a subcommittee concerned with Michigan elementary and secondary
education had started the process that made the State Board
of Education the only central education agency with

¹Michigan Constitutional Convention, "Weekly Delegate Report" (Lansing: Public Information Office, January 19, 1962).

²Education Committee Records, Alvin Bentley Papers, University of Michigan Historical Collections (Ann Arbor).

responsibilities for all public education in Michigan.

This board had the power to appoint the Superintendent of Public Instruction who would be the executive officer of the Department of Education. This was the first time this department had been given constitutional status.

Proposal 98 was the major action of the Education Committee in the area of public higher education in Michigan. The strong sentiment of the convention delegates was to preserve the values of constitutional status that the "big three" universities had enjoyed under the 1908 Constitution. The key distinction in the minds of the members of the Convention between the powers of the governing boards for these institutions and the State Board of Education was that the supervision and control powers were to be held by each board for its respective institution. The State Board had no such powers for higher education. The Education Committee proposed and the convention adopted the policy that each of the ten public institutions of higher education be given constitutional status by naming each in the constitution. Eight-member boards were established for each institution with members serving eight year terms. The only real controversy in Proposal 98 was the issue of how to govern the network of Community and junior colleges in Michigan. Suggestions ranged from constitutional status for each to a State Board of Control for all such institutions. The compromise was local boards of control for each with a State Advisory

Board for Community and Junior Colleges appointed by the State Board of Education. Proposal 98 was adopted by the convention on April 18, 1962.

By March, 1962 the Education Committee had labored diligently during six busy months and had created an Edu-0 cation Article that on the seventh month they pronounced very good. Chairman Bentley, in a memorandum to Stephen S. Nisbet, dated April 25, 1962 had enclosed a document titled "Education Article of the Constitutional Convention." The document states that according to Chairman Alvin M. Bentley. "the Education Committee in its revision of the Constitution has attempted to . . . retain that which has proved to be superior, strengthen portions where needed, and add certain new features to assure that Michigan education will flourish in an ever changing future." Bentley later is quoted as saying "the creation of this new and enlarged board has been by far the most outstanding accomplishment of the Education Committee." Four paragraphs of this document. 3 which was distributed widely by members of the Education and Public Information Committees, present the most authentic composite viewpoint of the Education Committee on their new creation, the State Board.

lEducation Committee Records, "Education Article of the Constitutional Convention," Alvin Bentley Papers, University of Michigan Historical Collection (Ann Arbor), p. 1.

²<u>Ibid.</u>, p. 2. ³<u>Ibid</u>.

The first paragraph presented states the reasons for an enlarged popularly elected Board as the central Michigan education agency:

The new State Board is a symbol of educational partnership between the people and the state. As representative of the people it embraces popular control, discourages use of education as a partisan tool, provides continuity of statewide policies and programs, is a buffer to special interest group influence on the schools, and helps unify educational forces throughout the state.

The second and third paragraphs cited give evidence of the pressures on all the agencies of Michigan general and educational governance to guarantee a sound fiscal sense of responsibility in the face of the burgeoning educational budgets.

Mr. George Romney, whose sub-committee created this board, stated that the significant contribution of this board would be to serve as a planning and coordinating force for all levels of education within the state. During Convention debate on this proposal, Mr. Romney declared that "in a matter of a few years this board could save the State of Michigan and its taxpayers more money than the two million dollars representing the entire cost of the Constitutional Convention."

The Education Committee has recommended that the new State Board receive information from all the various levels of public education. The possession of such information would enable the State Board to make appropriate recommendations to the Legislature as to the amount of state support required to meet the total needs of education in the state.

The final paragraph stated clearly that the Education Committee shared the view of both scholars and Michigan study commissions throughout the century that the powers and functions of the central education agencies in Michigan needed the wisdom and discretionary powers of a

policy-making board equipped with professional leadership to execute these policies.

For many years there have been serious doubts expressed as to whether the Superintendent of Public Instruction alone should have the final voice in determining state educational policies and procedures. The Education Committee therefore recommended that the State Board should appoint the chief state school officer to serve as its executive officer. His responsibilities in directing the state educational system would be the same as now but he would also be serving as an administrator to a deliberative body of outstanding citizens who would be broadly representative of the general public and would have an unselfish interest in public education.

In reflecting on the work of the Education Committee in its creation of a State Board of Education, Mr. Bentley, some four years later, expressed these thoughts: 1 "We conceived of the State Board as primarily in elementary and secondary education, not higher education." Asked about Stephen Nisbet's aspirations for the State Board, Bentley listed four Nisbet goals; (1) a strengthened State Board, (2) more responsibility and prestige for the Board, (3) more emphasis on secondary education, and (4) a Board that could steer a middle course between control and coordination. While Romney had pushed hard for an appointed Board, according to Bentley the real opposition of the Democrats on the committee was the "fear that the Senate would not confirm Democrats." Asked to give his current impressions of the first twenty months of the new State

¹Alvin Bentley, Owosso, Michigan, Interviews, August, 1966.

Board, from January 1, 1965 to August, 1966, Bentley had two observations: "First, we never foresaw the Democratic landslide of 1964 with all Democrats elected to the State Board. We wanted a bi-partisan Board." His second comment ways, "There is too little liaison between the State Board of Education and the Legislature, even though both are now Democratic." There seemed to be no rancor or bitterness on the part of the man who had labored hard to create a "new" State Board of Education for Michigan and who had been rejected by Michigan voters to lead it in its initial years. His current concerns in Michigan education had shifted to his first love, service on the Board of Regents of his alma mater, the University of Michigan.

The provisions of the 1963 Constitution related to public higher education in Michigan had caused a significant change in the powers, organization and functions of the State Board of Education.

Three significant changes in the 1963 Constitution had altered the State Board of Education in Michigan.

These three changes caused a corresponding shift in three areas of the powers, organization and functions of the State Board. The first significant change was the abolition of the "old" state board with its primary function of operating the "teachers' colleges" in Michigan. The second was the creation of a "new" State Board of Education with powers of general planning and coordination of all Michigan education, including higher education, with the accompanying

power to advise the legislature as to fiscal needs. The third major change was the constitutional status of the Department of Education and the appointed superintendent.

The implementation of these constitutional provisions through legislative acts provided specific direction to these changes contained in the constitution. The next chapter traces this development.

CHAPTER IV

THE STATE BOARD UNDER THE NEW CONSTITUTION

A new era in Michigan education began on April 1, 1963, the date the citizens of Michigan ratified the new state constitution. This chapter focuses on the opening decade of the development of the Michigan State Board of Education under that constitution, April 1, 1963 to April 1, 1973. The chapter continues the analysis of the development of the powers, organization and functions of the State Board of Education as the central education agency of Michigan in relationship to all public elementary and secondary education.

The recent constitutional development in Michigan had two important stages. The first stage was the writing of a constitution by elected delegates and its subsequent approval by the citizens of the state, as explored in the previous chapter. The second stage has been the legal implementation of that constitution over the past decade. This chapter traces the constitutional implementation, by executive, legislative, and judicial actions, of the



powers, organization and functions of the State Board. The specific thrust of this thesis is to assess the nature of the development of the Michigan State Board of Education before, during and after the 1961-1962 Michigan Constitutional Convention as the central education agency in Michigan. It is the post-convention development that is treated in this chapter.

A major emphasis will be on the development of the leadership and general supervision function of the Michigan State Board of Education for public elementary and secondary education. Developments related to the State Board of Education and all institutions of higher education will also be discussed in this chapter. It is the specific thesis of this chapter that the State Board of Education is the central education agency for elementary and secondary education, and aspects of higher education in Michigan. Much of the subsequent analysis will center around the discussions held, the decisions made, and the difficulties encountered by state agencies, in carrying out this constitutional mandate.

General Constitutional Implementation

While the calling of a constitutional convention, the writing of a new constitution, and its subsequent adoption tend to capture the major interest and attention of the public, it is the less publicized and glamorous implementation of the new document that may be of lasting

importance to the people of Michigan. Sturm and Whitaker emphasize this in the beginning of their "Introduction" to Implementing a New Constitution: The Michigan Experience. They state:

The formulation and adoption of a new constitution is a significant event in the political development of any state. This initial stage, however, provides only the legal framework which must be filled in by official action to make it directly applicable to specific conditions and public needs. Implementing the basic law of a state is a continuing process that extends throughout its operational life. It is not strange, therefore, that public interest tends to be high during the relatively short period of constitution-making, compared with the diminishing attention of the general citizenry to the continuing implementation of a new document. Despite the diminution of public interest, the process of implementing a new constitution is of basic importance, for the effectiveness of every constitution depends on the manner in which its provisions are interpreted and its mandates carried out [emphasis added]. I

Two parts of the 1963 constitution provided the legal basis for implementing the new charter. Most of the twelve articles of the constitution contained express provisions for their implementation. In addition, the constitution contained a final addendum entitled "Schedule and Temporary Provisions," which provided an orderly timetable for moving from the old charter to the new constitution. Significant items covered by this Schedule included

Albert L. Sturm and Margaret Whitaker, Implementing a New Constitution: The Michigan Experience (Ann Arbor, Mich.: Institute of Public Administration, the University of Michigan, 1968), p. 1. This volume describes, in detail, the general implementation of the 1963 Michigan Constitution.

continuation in office of elective and appointive officers until abolition of their offices or their successors have qualified,; provisions for extending and staggering terms of . . . higher education board members; abolition of the existing state board of education and election of a new and enlarged board. . . . The Schedule also set the dates for executive organization . . . and designated January 1, 1964 as the effective date [for the new constitution]. 1

In general, the initial statutory legislative implementation of the constitution was carried out in three stages over the first three years. State one involved actions needed immediately to bring the law into harmony with the new constitution and was carried out in 1963. Stage two was carried out largely in the 1964 legislative session and involved two types of legislation: (1) amendatory, which provided new procedures, such as time of elections, and (2) substantive law, which included the new state board of education. Stage three involved legislative action requiring longer deadlines for implementation and was best illustrated by the provisions on executive reorganization which were given two years, through 1965, for implementation.

The responsibility for the implementation of the new constitution was divided among the legislative, the executive, and the judicial branches of government. The legislative branch had the major responsibility. Sturm notes that "Statutory law is . . . the means by which most initial implementation is accomplished; it provides the

^{1&}lt;u>Ibid</u>., p. 22.

detailed standards and guidelines for administration of the constitutional system by the executive and interpretation by the judiciary." However, the executive branch held an important role in implementing the new Michigan Constitution, for the governor had important responsibilities for initiating executive reorganization and had the power of veto over acts of the legislature. The constitution also provided that "the attorney general shall recommend to the legislature as soon as practicable such changes as may be necessary to adapt existing laws to this constitution." In addition to the attorney general, Sturm indicates that

other executive . . . agencies likewise participated in effectuating the 1963 instrument, particularly, . . . the new state board of education, and others. The character and nature of the evolving constitutional system will be shaped in large measure by officers and agencies responsible for its administration.³

Finally, a unique provision of the Michigan Constitution, Article III, Section 8, stated that:

Either house of the legislature or the governor may request the opinion of the supreme court on important questions of law upon solemn occasions as to the constitutionality of legislation after it has been enacted into law but before its effective date. 4

¹Ibid., p. 29.

Michigan, Constitution, "Schedule and Temporary Provisions," Section 1.

³Sturm and Whitaker, Implementing a New Constitution, p. 30.

⁴Michigan, Constitution (1963).

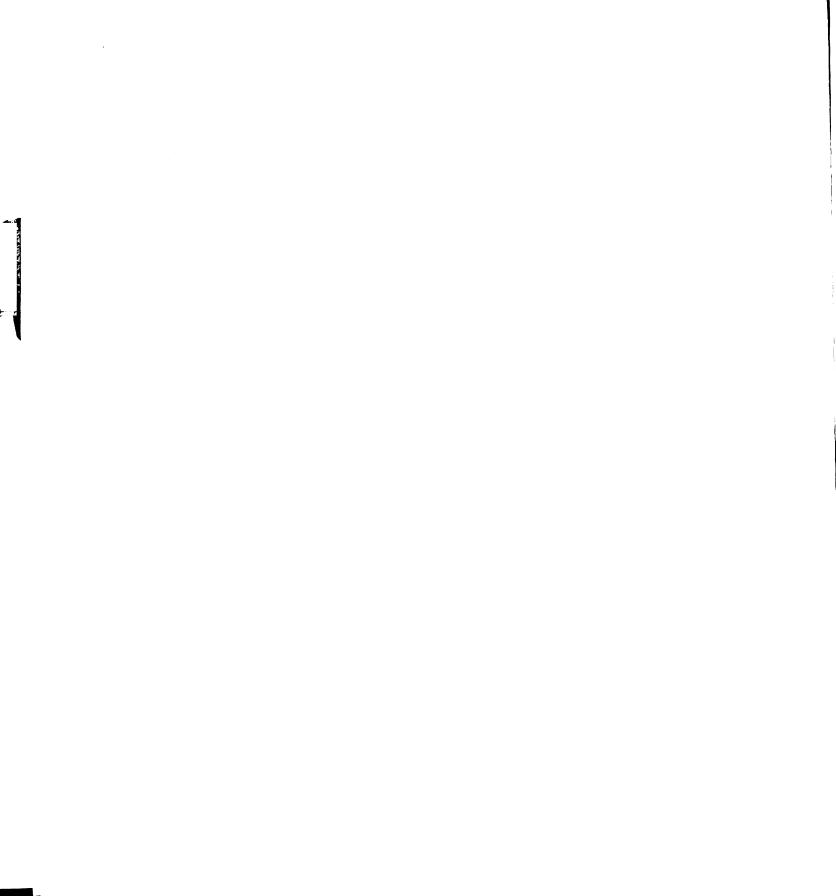
This provision was designed to accelerate the historic and constitutional right of the judicial system to interpret the constitution by "determining the meaning of its provisions in their application to the actual needs of government." An immediate opinion of the court on the constitutionality of a new law could serve to eliminate a long, costly, and frustating legal adjudication.

ment the new constitution and two separate committees were set up during the 1963 legislative session to recommend legislation. The Conlin committee, chaired by Representative Rollo G. Conlin, with Senator Garry Brown, a former Con-Con delegate, as vice-chairman, prepared more than seventy-five bills designed to implement the new constitution. In a special session of the legislature, from December 3, 1963 through December 24, 1963, the legislature passed 69 bills required for the immediate activation of the new constitution on January 1, 1964.

Governor George Romney, one of the three former vice-presidents of the Constitutional Convention, supported the recommendations of the Conlin Committee in his message to the special session of the legislature on December 3,

¹Sturm and Whitaker, Implementing a New Constitution, p. 31.

²Sturm and Whitaker, Chapter IV, "Major Implementation Developments," describes in detail these major developments of this three year period.



1963. Governor Romney outlined four areas; elections, civil rights, the judiciary, and education that needed immediate action by the legislature. In the area of education, changes in the organization of governing boards for institutions of higher education and the implementing of the new state board of education were crucial. Evidence of the support the governor gave in implementing the new constitution was the fact that he signed all but two of the sixty-nine bills approved by the special session of the legislature in December of 1963.

During the 1964 legislative session additional bills were enacted to implement additional areas of the new constitution including the major act implementing the new State Board of Education. The major remaining provision of the new constitution to be implemented in 1965 was the area of executive reorganization. The constitution stated that this must be carried out by the legislature by December 31, 1965.

Section 2 of Article V, the executive provisions of the new constitution, required that the more than 140 agencies of the executive branch be reorganized into not more than twenty major departments grouped according to function. One of the major purposes of the constitutional convention delegates had been to streamline the executive branch of the state government and make it more effective

¹Ibid., p. 52.

and efficient. This reflected a nationwide trend to centralize and integrate state administrative functions under a strong executive branch with increased powers in the office of governor. Because public education was the largest single budget item in many states, governors wanted a closer integration of the administration of the educational program of the state with the office of the governor.

executive reorganization. The new constitution gained the approval of Michigan voters on April 1, 1963 and in May Governor Romney requested all state agencies to send to him their proposals for implementing executive reorganization as mandated by the constitution. These recommendations came in promptly and in September key executive office staff and consultants developed policies and procedures for executive reorganization. Sturm provides the following summary of the policies developed:

A functional organization would be requested of the legislature, to be accomplished by an omnibus bill rather than a series of bills; all agencies, except the executive office, would be allocated among fifteen departments; functions, duties, and powers would be assigned to a department, not to a named officer; each department would be headed by a single executive except commissions named in the constitution; any commissions heading departments would have policy—making, and not administrative, functions; [emphasis added] broad authority should be given the governor formally to establish the departments by executive

¹Sturm, Chapter VII, "The Executive Branch," treats in detail the developments on executive reorganization.

order and to name the department heads in advance; and the omnibus bill should not spell out their internal organization of the departments.1

In addition to these policies some procedures for the transfer of departments were proposed. Three types of transfers, types I, II, and III, were delineated. Type I transfers moved an agency with its powers, duties and functions free from supervision by the department head except certain budgetary and personnel controls. A type II transfer provided an intermediate status between the relative autonomy of a type I transfer and a type III transfer, which abolished the agency and gave its functions to a new department. These policies were presented in a draft bill to legislators for their subsequent action.

The constitution had given two years for the executive reorganization provisions to be enacted into law. The legislature and governor had reached essential agreement on the substance of an executive reorganization act and Act 380 of the Michigan legislature was passed and signed. Sturm summarizes the act:

Act 380 of 1965 created nineteen departments. . . . Three have constitutionally-prescribed single heads-the departments of state, the attorney general, and the treasury; nine have single directors appointed by the governor--administration, state police, military affairs, commerce, labor, mental health, public health, licensing and regulation, and social services. Education, civil service, civil rights, and state highways

¹<u>Ibid.</u>, p. 112.

²Ibid., for fuller discussion see pp. 111-14.

are headed by commissions prescribed by the constitution; the last three, agriculture, conservation, and corrections, are also headed by commissions, as required by H2169 or Act 380.1

Two additional changes in the executive branch were significant in understanding the integration and centralization of the powers of the executive branch in the office of governor. Prior to the 1963 Constitution there had been seven separate constitutional executive offices elected from the state-at-large, with the governor listed as chief executive. This multi-executive arrangement had been organized by legislative act under an Administrative Board to provide coordination and more effective administration. Each officer, however, had constitutional status, was elected separately, and held wide powers in his own area of jurisdiction. The Superintendent of Public Instruction was one of these positions. The 1963 Constitution reduced the number of elected officials of the executive branch from the state at large to four; the governor, the lieutenant governor, the secretary of state, and the attorney general. The treasurer became a gubernatorial appointment and the Superintendent of Public Instruction was appointed by the State Board of Education. A second major change under the 1963 Constitution put the primary responsibility for budget recommendations to the legislature in the office of the governor, not the administrative board of individual

¹<u>Ibid.</u>, p. 115.

agencies. This provided a powerful tool in centralizing executive power under one office.

This brief summary highlights the major changes needed to implement the general provisions of the new Michigan constitution by the legislative and executive branches of the government. Actions needed in 1963 to bring the law into harmony with the new constitution by January 1, 1964 were immediately carried out. In 1964 amendatory and substantive laws were enacted to carry out new provisions in the constitution, including the new State Board of Education. Executive reorganization was the primary thrust of constitutional implementation in 1965. The next section will analyze the actions implementing the Education Article.

Implementation of the Education Article

The implementation of Article VIII, the Education Article of the new constitution, followed a pattern similar to that of the constitution as a whole. There were items requiring immediate implementation, others requiring amendatory and substantive laws, and several acts related to education that were a part of the executive reorganization efforts of 1964 and 1965.

Seven of the nine sections comprising Article VIII contained the familiar phrases "provided by law" or "as prescribed by law." These charges to the legislature by the Constitutional Convention ranged from broad mandates to

establish a state system of public education to deciding specifics on election arrangements for members of various boards. Another major provision for implementing the new State Board of Education was the "Schedule and Temporary Provisions." This schedule provided policies and procedures to "insure the orderly transition from the constitution of 1908 to this constitution." There were sixteen sections in this schedule. The majority of these sections dealt with establishing election procedures for offices or boards authorized by the constitution. A summary of these provisions that relate to the State Board of Education provides a brief and accurate account of the steps taken to implement the appropriate educational provisions of the new constitution.

The "Schedule and Temporary Provisions" as adopted by the Constitutional Convention on August 1, 1962 included the following:

- 1. The constitution would be voted on April 1, 1963, at the general election held that day (Section 15).
- 2. If approved, the constitution would become the supreme law of the state on January 1, 1964 (Section 16).
- 3. One year later the "old" State Board of Education provided for in the 1908 constitution would be "abolished at twelve o'clock noon January 1 [1965] . . . and the terms of members thereof . . . expire" (Section 9).

- 4. The eight "new" State Board of Education members were to be elected in November 1964 "for the following terms: two shall be elected for two years, two for four years, two for six years, and two for eight years as prescribed by law" (Section 9).
- 5. The "old" elected Superintendent of Public Instruction would continue in office until June 30, 1965 (Section 3).
- 6. Provisions of the constitution related to boards of institutions of higher education and the State Board of public community and junior colleges were to be "implemented by law" (Sections 10 and 11).
- 7. Reorganization of the executive branch into not more than twenty departments was to "be completed within two years after the effective date of this constitution." If the legislature failed to enact this by January 1, 1966, "the governor, within one year thereafter, by executive order shall make the initial allocation" (Section 12).

The task of the remainder of this chapter is to analyze the process and effectiveness of the implementation of the provisions of the constitution concerning the Michigan State Board of Education for the decade April 1, 1963 to April 1, 1973. The analysis will reflect the thesis that the State Board of Education has become the central

education agency for many of the major functions of public education in Michigan.

The actions of the Michigan legislature, the official documents of the executive and judicial branches of government, and the official discussions and actions of the State Board of Education and the Department of Education are the core of this analysis.

April 1, 1963 to January 1, 1965 were momentous months in the changing constitutional and legal basis for the governance of education in Michigan. Major changes took place in the three major agencies of Michigan education that have been the central focus of this study. The Office of the Superintendent of Public Instruction ceased to be a major state elective post responsible for elementary and secondary education in Michigan. The old State Board of Education was dissolved while a new State Board of Education was created to carry out the functions of the former Superintendent and assume the general planning and coordinating powers for all education in Michigan. University of Michigan, originally conceived as the central education agency of Michigan, was now just the oldest among ten self-governing institutions of higher education granting baccalaureate degrees. In a sense the old Scriptural adage that the first shall be last and the last first had occurred in Michigan central education agencies. first, the University of Michigan, created by the original administrative council of Michigan during territorial days

in 1817 to govern all Michigan education, was by 1965 just one of ten constitutionally established public institutions of higher education in Michigan. The second of the three central education agencies traced in this study, the Office of the Superintendent of Public Instruction, established in the 1835 Constitution as the nation's first such continuing office, became the administrative arm of the State Board of Education in 1965. The last of the three central education agencies, the State Board of Education, chartered in the 1850 Constitution to preside over one small normal school, had by 1965 become an eight-member elected board. This board had the three-fold constitutional mandate to (1) fulfill the duties of "leadership and general supervision over all public education . . . except as to institutions of higher education granting baccalaureate degrees" as well to (2) be "the general planning and coordinating body for all public education, including higher education," with responsibilities to (3) "advise the legislature as to the financial requirements in connection therewith."

While the calling of a constitutional convention and the writing and ratification of a new constitution tend to capture the major interest and attention of the public, it is the less publicized and less glamorous implementation of the new document that may be of lasting importance to the people of Michigan. Sturm emphasized this in his opening paragraph:

The formulation and adoption of a new constitution is a significant event in the political development of any state. This initial stage, however, provides only the legal framework, which must be filled in by official action to make it directly applicable to specific conditions and public needs. Implementing the basic law of a state is a continuing process that extends throughout its operational life. It is not strange, therefore, that public interest tends to be high during the relatively short period of constitution-making, compared with the diminishing attention of the general citizenry to the continuing implementation of a new document. Despite the diminution of public interest, the process of implementing a new constitution is of basic importance, for the effectiveness of every constitution depends on the manner in which its provisions are interpreted and its mandates carried out. 1

The remainder of this chapter describes the official actions directly applicable to the new State Board of Education.

Official Actions in 1963

The 1963 efforts at implementing educational provisions of the new constitution were led by two former Con-Con delegates; Senator Garry E. Brown and Governor George Romney. Apparently confident that the constitution written by the delegates would meet the approval of the voters, Senator Brown was the first to act by introducing on February 5, 1963, a resolution providing for a joint legislative committee to examine the proposed constitution and recommend legislation for its enactment. 2 It passed

Sturm and Whitaker, <u>Implementing a New Constitution</u>., p. 1.

²<u>Ibid.</u>, p. 48.

the Senate immediately, but the House committee, perhaps not so confident of the voters' approval, withheld passage until April 3, two days after the ratification of the new constitution. The twelve-member committee was appointed only to be quickly replaced by a larger committee authorized on April 18, 1963 and known as the Joint Legislative Committee on Constitutional Implementation. This committee was chaired by Representative Rollo G. Conlin, a twentyyear veteran of the House, with Senator Brown serving as vice-chairman. Three major sub-committees, election, judiciary, and executive, were formed. The executive subcommittee carried the major responsibility for recommendations related to the executive reorganization and the State Board of Education. The elections sub-committee considered several key items including election procedures for a new State Board of Education and the enlarged boards of the three major universities.

Governor Romney, eager to implement the new constitution, issued a memo on May 2, 1963 to all state agencies requesting each to submit suggestions for implementing executive reorganization. Each department or agency reviewed possible organizational patterns from other states, made recommendations for the most effective organization, and summarized the statutory changes necessary or desirable to accomplish these recommendations. While waiting the results of the Joint Legislative Committee, Romney acted on another front affecting education.

Faced with mounting budget needs and requests, especially those of higher education, Romney appointed a Citizens Committee on Higher Education, and charged it with the task of determining present and future needs of higher education in Michigan. The Committee was to submit plans for meeting these needs, including costs. Mr. Dan Karn, a delegate to the Constitutional Convention and member of the education sub-committee on higher education, was appointed by Romney as chairman.

The Legislature and the Governor had planned a fall special session of the Legislature to act on matters pertaining to the implementation of the new constitution. light of this planned session the Conlin committee submitted its proposed bills to the governor in mid-September with the recommendation they be included in the call for the special session. These Conlin committee proposals were available to a select committee, chaired by Walter DeVries, administrative assistant to the Governor for agency liaison, which met for three days in the latter part of September on Mackinac Island. In addition, the report of recommendations for executive reorganization of the executive department agencies prepared at Governor Romney's request in June was available. The DeVries committee established a number of policy decisions relating to constitutional implementation. One decision had a direct bearing on the role envisioned for the State Board of Education. In substance, it stated that all departments would be headed by a single executive

except those designated by the constitution to be headed by a board or commission. Those departments headed by a commission "would have policy-making, and not administrative functions." In addition, the decision was made to have all budget functions center directly in the Office of the Governor rather than with the Administrative Board which included the appointed Superintendent of Public Instruction. The DeVries committee recommendations were reported to the Governor on September 24, 1963.

Meanwhile the special session of the legislature was experiencing difficulties in resolving matters relating to fiscal reform and was not able to accomplish, in the time allotted, other matters related to the implementation of the new constitution. It became necessary to call a second special session of the legislature. This session was called to order by Governor Romney on December 3, 1963 and ran through December 24, 1963. Aware that the new contitution was to become the supreme law of the state in less than thirty days, this became a no-nonsense, bipartisan session of the legislature with the close cooperation of the Governor. Sixty-nine bills were passed by the legislature and Governor Romney signed sixty-seven of them into law.

¹Sturm and Whitaker, Implementing a New Constitution., p. 112.

Several of these sixty-seven acts were directly related to education, Acts number 5, 22, 23, 24, 48, 49, 50, and 51 became laws during this session. Act number 5 provided the legislation necessary to implement the sections of the education article of the constitution related to the new State Board of Education. The Act set up procedures for the election of the new board. Candidates were to be nominated by political party conventions, with eight elected-at-large from the state. The successful candidates would serve initially staggered terms, two members for two years, two members for four years, two members for six years, and two members for the full eight-year term of office.

Act 48 was passed and implemented the constitutional mandate requiring each of the four Michigan universities formerly governed by the State Board of Education to have an eight-member appointed board. The Act had, for each, created a governing board to be appointed by the Governor. Included also were any changes in the official name of each university. Affected by this Act were Western Michigan University, Eastern Michigan University, Central Michigan University, and Northern Michigan University.

Acts numbers 23, 50, and 51 implemented the constitutional requirements that two of the largest universities, Michigan State University and Wayne State University, each have boards increased to eight members elected at-large from the state, the pattern already

established by the University of Michigan. Provisions were made for immediate appointments by Governor Romney to bring each of these two boards to full strength as of January 1, 1964. Again, provisions were included to provide staggered terms so that two members would be elected to each board at the fall elections of even-numbered years.

The Attorney General, in an opinion dated

December 25, 1963, ruled that the old State Board of

Education, functioning under the 1908 Constitution, would

cease supervision of the four universities, Western,

Eastern, Central, and Northern, on January 1, 1964. On

this date the four new boards began operating under the

new constitution. The old State Board of Education would

continue to function one additional year, until the new

board elected in the fall of 1964 took office January 1,

1965; but it no longer had the original function that

caused its creation in 1850, the supervision of "the

Michigan State Normal School."

The legislative acts of the Second Extra Session of the Michigan legislature provided Governor Romney with a most significant opportunity to influence the lay leader-ship of Michigan higher education. Each of the four universities formerly under the jurisdiction of the State

¹Sturm and Whitaker, Implementing a New Constitution, p. 180.

Board of Education was now authorized to have an eightmember board "appointed by the governor with the advice and
consent of the Senate." Romney appointed these thirty-two
board members in December of 1963. Michigan State University and Wayne State University each added two members
to make eight-member boards. Romney made these four
appointments. In all, Romney appointed thirty-nine board
members in regular or interim appointments on the boards of
Michigan universities in December.

New Boards for the "Normal" Schools

One of the major decisions of the Constitutional Convention in the Education Article to preserve the constitutional autonomy of the three major universities by continuing to grant each of the elected boards for these institutions the power of "general supervision of its institution and the control and direction of all expenditures from the institution's funds" (Section 5). Constitution then provided each public baccalaureate institution in Michigan with an appointed board of control with basically the same constitutional autonomy granted the three major universities. Each of the four former teacher's colleges under the control of the State Board of Education in the 1908 Constitution was granted an eight member appointed board of control. These boards were to become operational on January 1, 1964, the effective date of the new Michigan constitution. The responsibility for these

four universities would no longer be with the State Board of Education after that date. The constitutional provisions just described required immediate implementation by the legislature and governor.

The Extra Special Session, in December, of the 1963 Michigan legislature passed the necessary act to implement these constitutional provisions which was then signed by Governor Romney. Legislative Act 48 (1963) implemented the constitutional mandate that continued Central, Eastern, Northern, and Western Michigan Universities and gave each their own board of control appointed by the governor with the advice and consent of the Senate. Each board was given corporate status in the 1963 Constitution and Legislative The Board was to elect from its membership each year a chairman and vice-chairman. The president of the University was to be an ex-officio officer without the right to vote but who could be elected chairman of the Board. Each board "shall have general supervision of the institution and the control and direction of all expenditures from the institution's funds." Act 48 provided Governor Romney with the opportunity to appoint these thirty-two board members in December of 1963.

Concurrent with the legislative and executive actions described above, the Attorney General, in an opinion dated December 25, 1963, ruled that the State Board of Education functioning under the 1908 Constitution would cease the supervision of the four universities,

Central, Eastern, Northern, and Western, on January 1, 1964. The new boards of control were to assume their responsibilities simultaneously with the effective date of the new constitution. While the old State Board of Education continued to function one additional year, it no longer exercised the original function that had brought about its creation in the 1850 Constitution, the supervision of the "normal" school.

Two observations are in order at this juncture in the constitutional and legal relationships of the State Board of Education and Michigan's public institutions of higher education. One hundred and fourteen years earlier, the authors of the 1850 Michigan constitution established two constitutional precedents in Michigan, (1) an autonomous university, and (2) a State Board of Education. autonomous university was a seminal attempt in American public higher education to remove the supervision and control of higher education from the general governance of the legislature by creating a special agent of educational governance, The Regents of the University of Michigan. delegates to that Constitutional Convention charged an agent of general government, the legislature, with the responsibility to "appropriate moneys to maintain the university" and gave an agent of special governance, the Board of Regents, the "general supervision of its

¹<u>Ibid.</u>, p. 180.

institution and the control and direction of all expenditures from the institution's funds." The 1850 Michigan constitution marked the commitment of the citizens of Michigan to a constitutional agent of special governance for the university. The 1963 constitution and its implementation extended this constitutional support for special governance to all public baccalaureate degree institutions in Michigan. Judicial review of this constitutional principle of the 1963 constitution, developed in some detail in an earlier chapter, supports this view of the intentions of the delegates of the 1961-1962 Constitutional Convention and the citizens of Michigan.

The second observation in order at this juncture of Michigan educational governance is related to the changing functions of the State Board of Education. The original State Board of Education was given constitutional status in the 1850 Constitution for one specific function, "to operate the Michigan State Normal School." In addition, almost it seems as an afterthought, the writers of the 1850 constitution added the phrase, "and such other duties as shall be prescribed by law." This phrase, as developed in some detail earlier in this study, became a convenient legal bridge whereby the legislature could, and did, transfer educational duties from agents of general government in Michigan to a special state agent of educational governance, the State Board of Education.

By 1964 the State Board had lost its one original function but had acquired "by law" numerous functions related to public elementary, secondary, and higher education in Michigan. The acquisition of these functions "by law" supports the further observation that the movement from general to special governance of education occurred at different times in the development of the State Board. In general, this shift from general to special governance seemed to occur when a particular educational function became too complex or controversial for the legislature to handle.

New Powers for the New State Board, 1964

New Year's day, 1964, was the dawn of both a new year and a new constitutional era in Michigan's history. The fourth constitution approved by the citizens of Michigan was now the supreme law of the state. After the flurry of activity of the Second Extra Session of the legislature in December, 1963, the legislature turned its attention to matters of greater personal interest to the law-makers. The members of the legislature were facing an election year without knowing the exact boundaries and composition of the districts they would be representing. Reapportionment was the big issue of 1964 and was not settled until June when the ruling of the United States

Supreme Court in Reynolds v. Sims required both houses of a bicameral legislature to provide equal representation of voters on the basis of population. Within two days the Michigan Supreme Court authorized such a plan for Michigan and the summer-fall election campaigns of the legislators, governor, other state officials and the candidates for the new State Board of Education were underway. Governor Romney, in the initial months of 1964, was also testing the presidential primary waters, a prospect more glamorous than the necessary, but mundane, task of implementing a constitution.

enact the legislation necessary to make the new State Board of Education operative by January 1, 1965. This involved the writing and passing of a major statutory act that fulfilled those constitutional mandates related to education that were prescribed by law. Such an act, Act 287, was passed in the 1964 session of the legislature. In general the act provided for the orderly transfer of powers from the old State Board of Education to the new State Board of Education and clarified, by law, the relationships and duties of the State Board of Education and its appointed superintendent. The Act set the legal pattern for the organization and functions of the State

¹Reynolds v. Sims, 378 U. S. 561 (1964).

²Michigan Public Acts (1964) No. 287.

Board of Education under the new constitution. An understanding of the provisions of this Act are crucial for an analysis of the current powers, organizations and functions of the State Board of Education as Michigan's central education agency for public elementary and secondary education.

In the language of the law itself, Act 287 was an Act "to provide for the organization and functions of the state boards of education under the constitutions of 1908 and 1963." In addition the Act provided "for the appointment and functions of the superintendent of public instruction under the constitution of 1963." Certain sections of Act 287 repealed Act 231 (1889), the source of the powers of the State Board of Education for seventy-five years. The language of Act 287 restated the constitutional provisions related to the powers of the State Board of Education and added the statutory laws necessary for the organization and duties of the Board. The brief resume of the key provisions of Act 287 that follows provides a clear, concise picture of the current legal status of the State Board.

Section 1 provided for the succession of the powers, records, property and proceedings from the old board to the new board. The section states that:

The state board of education provided for in the constitution of 1908, hereinafter referred to as the "old board," shall continue to function until 12 noon on January 1, 1965, at which time it is abolished and the

terms of its members shall expire. The old board shall then be succeeded by the state board of education provided for in article 8 of the constitution of 1963, hereinafter referred to as the "state board. . . ."

Section 4 states that a quorum will be "a majority of its members." The board may transact all necessary business at any meeting at which a quorum is present.

Section 6 prohibits any board member from having an interest in the publication or sale of school textbooks or school library books.

Section 7 states that "the state board of education is a body corporate . . . and may make such ordinances, bylaws, and regulations as it deems proper for the government and conduct of the board and for the transaction of its business and the operation of the state institutions under its control."

Section 8 authorizes acceptance of gifts, federal grants and other sources of such revenue "for the purpose of carrying on any of its powers and duties and [the board] may, with the approval of the legislature, use the same for the purposes for which they were donated."

Section 9 reiterates the constitutional powers and duties of the Board for "leadership and general supervision" and "general planning and coordination" and adds that "the board may conduct research studies relating to general school problems of the public schools of this state."

Section 11 makes it mandatory for the State Board of Education to "report to the legislature each regular session as to its operations and recommendations including an itemized statement of its receipts and expenditures for its preceding fiscal year." This section concludes with a repetition of the constitutional mandate to "advise [the legislature] as to the financial requirements of all public education, including higher education."

Section 12 carried out the directive of the constitution that elected officials shall fulfill their term of office by stating that "the superintendent of public instruction elected under the 1908 constitutions shall serve as superintendent of public instruction until June 30, 1965." Section 13 restates the relationship of the State Board of Education and its appointed Superintendent of Public Instruction. The Board was to determine the term of office and compensation of the Superintendent.

Section 14 was the key legislative provision that transfered the numerous powers of the Superintendent of Public Instruction under the 1908 constitution to the new State Board of Education. In turn, the section makes specific the relationship between the Board and its appointed superintendent. Section 14 states:

After June 30, 1965, a reference in any law to the powers and duties of the superintendent of public instruction is deemed to be made to the state board unless the law names the superintendent as a member of another governmental agency or provides for an appeal to the state board of education from a decision of the superintendent, in which cases the reference is deemed

to be made to the superintendent of public instruction appointed under the 1963 constitution. Such superintendent of public instruction shall be responsible for the execution of the policies of the state board. The state board may delegate any of its functions to him. He shall be the principal executive and administrative officer of the state department of education.

Section 15 empowers the State Board of Education to "prescribe rules and regulations that it deems necessary to carry out the provisions of this act," and Section 16 transferred the contracts and obligations of the old State Board of Education over to the new State Board except as otherwise provided by law.

Section 17, the final section of Act 287, repeals several former acts and sections of acts related to the powers and duties of the old State Board of Education. The primary act repealed was Act 194 of the Public Acts of 1889, as amended, sections 390.401 to 390.421.

While there have been some subsequent amendments to Michigan Public Act No. 287 (964), the broad outlines of this Act have set the constitutional and legal guidelines for the powers, organization and functions of the current State Board of Education. Article VIII, Sections 3 and 7, vested the State Board of Education with the central powers of the state for public elementary, secondary, and junior and community college education in Michigan. In addition the Board was given the duty of general planning and coordination of all public education, including higher education. The former powers and duties of the elected Superintendent of Public Instruction were transferred, by

Act 287, to the State Board of Education, and the Superintendent became an appointee of the Board, serving as its chairman without voting privileges. In turn, the Superintendent was designated by the constitution as the chief executive officer of the Michigan Department of Education. This was the first time the Department of Education had received constitutional status in Michigan.

Each institution of public higher education in Michigan now has its own board of control and the State Board of Education has just three constitutional duties related to these institutions. The Board is to be the (1) "general planning," and (2) "coordinating body for all education, including higher education," which includes (3) advising the legislature as to the financial requirements of the first two functions. The respective boards of all public institutions of higher education now have the "general supervision of its institution and the control and direction of all expenditures from the institution's funds, the historic power granted to the University of Michigan in the 1850 Constitution.

The two sections of Act 287 which deal specifically with the relationship between the State Board of Education and the Legislature are sections 11 and 8. Section 11 spells out in some detail the three fiscal responsibilities of the State Board to the Legislature. These responsibilities are (1) an accounting at each regular sesson of the legislature as to State Board operations and recommendations;

(2) an itemized financial statement of receipts and expenditures of the preceeding fiscal year, and (3) advice on financial needs of all public education for the coming year. This section preserves the cherished fiscal role for the legislature. While the State Board of Education was created as a central education agency by the 1963 Constitutional Convention with certain powers and duties not controlled by the legislature, the last word in most of these areas still remained in the hands of the "big school board," the state legislature. Section 8 of Act 287 preserved the fiscal power of the legislature by stating that while the State Board of Education could receive gifts, federal grants, and other such funds these funds could not be expended without the approval of the legislature. two sections, Sections 11 and 8, insured a continued balance of power between the State Board of Education with its policy-making powers for education in Michigan and the legislature and its fiscal powers and policies. governor, with budget powers, and the legislature with its fiscal appropriations, still remain powerful influences of general government in Michigan education.

Three additional factors occurred in 1964 that influenced significantly the implementation and development of the State Board of Education. The first was a law by the legislature, Act 193, which authorized the establishment of a state board of public junior colleges as provided for in Article VIII, Section 7 of the constitution. This

act required the State Board of Education to appoint these members by February 1, 1965. 1 The second of the factors influencing the State Board of Education was an interim report of the Romney-appointed Citizens Committee on Higher Education. While the report was primarily an advisory report to the legislature on the appropriations needed for higher education in Michigan for the 1964-1965 year, it dramatized the rapidly increasing enrollments in higher education in Michigan and the mounting costs in the coming years. This information strengthened public, legislative and executive sentiment for the State Board of Education to move with dispatch in its role as general planning and coordinating agency for all Michigan education, including the necessary fiscal requirements.

The final event of 1964 that shaped significantly the future of the State Board of Education was the actual election, in the fall of 1964, of eight members who would constitute the board. Act 5 of the 1963 legislature had enumerated the provisions for the selection of individuals to fill these state-wide elective offices. Party conventions of the two major political parties named sixteen individuals, eight Republicans and eight Democrats, as candidates for the State Board.²

l<u>Ibid.</u>, p. 56.

^{2&}quot;Biographical Data on Education Board Candidates," Michigan Education Journal, Vol. XLII, No. 5 (October 15, 1964). 2-3.

The Republican convention, meeting in mid-September, 1964, nominated the following eight individuals as candidates for the State Board of Education. Leading the Republican slate was Alvin Bentley of Owosso, former Chairman of the Education Committee of the 1963 Constitutional Convention and James O'Neil from Livonia, an incumbent on the "old" State Board of Education. Also running were Robert Briggs of Jackson, a former vicepresident of the University of Michigan; John Kreger of Flat Rock, a long term member of local and county school boards; Joyce Hatton of Grand Haven, a member of Governor Romney's Committee on Higher Education; Bourke Lodewyk of Bay City, president of the local school board; Karla Parker of Grand Rapids, former president of the National Congress of Parents and Teachers; and Ellen Solomonson of Norway, former president of the Michigan Education Association.

The Democrats also held their convention in midSeptember and nominated the following eight individuals as
their candidates for members of the State Board: Thomas J.
Brennan, a lawyer from Dearborn; Carmen L. Delliquardi, a
professor at Michigan Technological Institute in Houghton;
Leon Fill, a physican from Huntington Woods; Marilyn Jean
Kelly, an instructor at Albion College in Albion; Charles
Morton, a minister from Detroit; Edwin Novak, an optometrist from Flint; Peter Oppewall, a professor at Calvin
College in Grand Rapids; and Donald Thurber, from Grosse
Pointe and president of a public relations firm.

The Michigan Education Association, realizing the significant part the new board members would play in Michigan education, broke a 112-year tradition and endorsed specific candidates for the eight-member board. Dr. Dale Kennedy, executive secretary for the association, explained that

Education in Michigan is at a crossroad. In deciding to endorse candidates for the new State Board of Education, the MEA is recognizing the importance that this new eight-member board can and should play in providing adequate educational opportunities for Michigan youth at all levels, pre-kindergarten through post-graduate work.

The time has come for Michigan to take the necessary steps to provide adequate facilities and services for Michigan's doubling enrollments at all levels of education. The new state constitution provides this new State Board of Education with co-ordinating responsibilities for all public education in Michigan, including higher education. The MEA has identified candidates from both parties it feels are most qualified to provide constructive leadership in meeting Michigan's educational needs in the years ahead. 1

The MEA endorsed ten of the sixteen candidates, seven
Republicans and three Democrats, for the eight positions on
the Board. Alvin Bentley and James O'Neil were their
choices for the full eight-year terms; Briggs and Oppewall
for the six-year terms; Hatton and Lodewyk for the fouryear terms; and four candidates, Fill, Parker, Solomonson,
and Thurber for the two remaining two-year terms.²

¹ Ibid., p. 1.

²<u>Ibid</u>. Initial terms of eight, six, four, and two years were legislative provisions of Act 5 (Second Extra Session, 1963).

However, the efforts of the Republican candidates and the endorsements of the Michigan Education Association were not sufficient to elect any Republican members on the new State Board. The 1964 November election in Michigan resulted in a preponderance of Democrats elected to state offices. The State Board of Education was a landslide and all eight Democratic candidates were victorious. joined, for the first time since the Franklin Roosevelt sweep in 1932, by a Michigan legislature controlled by the Democrats in both houses. The 1964 election resulted in the largest Democratic majorities in both the Senate, 23 to 15, and the House of Representatives, 73 to 37, in Michigan's recent history. However, Governor Romney was successful in his bid for re-election and compiled a 1,764,355 to 1,381,442 vote record over his Democratic opponent.²

The results of the general elections in the fall of 1964 resulted in the rather unusual Michigan situation of an all-Democratic State Board of Education having a Democrat as its superintendent for at least the first six months of its operation and working with a legislature controlled by a large Democratic majority. The situation

¹ Michigan Statistical Abstract, Seventh Ed., 1968, p. 530.

²<u>Ibid.</u>, p. 529. President Lyndon Johnson carried the state by a 2 to 1 majority, receiving 2,136,615 votes to Republican candidate Barry Goldwater's 1,060,152 total.

was not without its irony. A Constitutional Convention controlled by a two-to-one majority of Republicans, including its education committee, wrote an education article creating a State Board of Education which was implemented by a Republican legislature and governor in 1963 and 1964. Now an all-Democratic cast would initiate that Board in 1965 to the dismay of Republicans and the delight of Democrats.

While the focus of attention in 1964 was on the legislative implementation of the new State Board of Education and the popular election of its new members, the old Board was carrying out its final duties. Shorn of responsibilities for the four newly autonomous universities, the four members of the Board--Cornelia Robinson, Frank Hartman, James O'Neil, and Lynn Bartlett--quietly carried out the remaining powers and duties of the Board through December, 1964. In twenty-one meetings they approved all teaching certificates recommended by the Superintendent's Office, approved the teacher education program at Michigan's newest four-year private institution of higher education, Spring Arbor College, managed the affairs of the School for the Deaf, School for the Blind, and the Michigan Rehabilitation Institute, and acted on property transfers and school district annexations and

¹ Minutes of the State Board of Education, May 12, 1964, p. 238.

consolidations. One item recorded in the minutes of the meetings of the Michigan State Board of Education in its final year carried over as a major problem confronting the new Board. The November, 1964 minutes ordered that the "Secretary of the Board notify the Corporations and Securities Commissioner that the Michigan College of Osteopathic Medicine (Lansing) has met all the requirements of an . . . Educational Corporation as required by law." The resolution of this matter was a time consuming task for the new Board. The final meeting of the old Board of Education was held on December 17, 1964, with an agenda that was largely devoted to land transfers. final action of the Board was recorded as "on motion, the meeting adjourned." There were no last hurrahs, no reviews of the glories of the 116-year history of one of the pioneer State Boards of Education in the United States, and no seeming regrets. After nearly six-score years, an era in Michigan education had come quietly to an end.

A New Era in Michigan Education

Just as January 1, 1964 had begun a new era for the citizens of Michigan under a new constitution, so January 1, 1965 began a new era for the new State Board of

¹ Minutes of the State Board of Education, November 6, 1964, p. 109.

Education. The newly-elected board members took their oaths of office on January 1. Prior to assuming office they had met with the four members of the previous state board to assure an orderly transition of business. Lynn Bartlett, the superintendent of public instruction, had been a member of that four-person board and, by the wording of Act 287, would complete his elected term of office to June 30, 1965 as the superintendent of the new Board. This arrangement facilitated an orderly transition of responsibilities and functions from the former Board to the new Board and from the Office of the Superintendent of Public Instruction to the new Board. While the arrangement had its advantages, it also had the disadvantage of preventing the new Board from moving quickly to appoint a superintendent entirely of their own choice.

The new Board held its first official meeting on January 13, 1965 in the office of the Superintendent. Dr. Bartlett called the meeting to order in his constitutional role as chairman. All Board members were present including Governor Romney in his capacity as ex officio member of the new board. Dr. Bartlett, with a view to the historic importance of the occasion, opened the meeting with a challenging and thoughtful charge to the Board. His opening remarks were:

In the ever-hastening kaleidoscopic changes of today we are sometimes wont to overlook events that in later years and in retrospect have great meaning and significance. I believe that this first meeting of this

State Board of Education is such an occasion. There begins today a new era in Michigan education, and an old one has come quietly to an end. 1

Dr. Bartlett then reviewed briefly the history of the State Board of Education in Michigan. Created by the legislature in 1849 "primarily for one purpose--to supervise selection of the site and the operation of a state normal school"--the Board had selected that site, Ypsilanti, at its first meeting on May 3, 1849 in Detroit. Michigan Constitution of 1850 had reaffirmed the legislative mandate to the Board to "have general supervision of the state normal school" with additional Board duties "prescribed by law." That Board had dedicated Michigan State Normal School, now Eastern Michigan University, in 1852. The next fifty years saw the three additional normal schools, now known as Central Michigan University, Northern Michigan University, and Western Michigan University, founded and placed under the governances of the State Board. By later legislative acts the Board was given authority to operate the state schools for the deaf, blind, and vocational rehabilitation.

Returning to the challenge of the present, Dr. Bartlett then continued:

The new Constitution that created this State Board of Education has provided the first major change in the State Board since the Constitution of 1850. . . . We

¹ Minutes of the State Board of Education, January 13, 1965, p. 2.

can, if we so desire, implement a new era in Michigan education—an era we know will be filled with complex problems, critical issues and the challenge of a greater magnitude than ever before. . . .

Even more, it presents to you as a Board the unique and singular opportunity to chart the course of Michigan education for many years to come.

The language of the new Constitution clearly indicates the charge to the State Board of Education, . . . its all-inclusive "leadership and general supervision over all public education. . . .

Your responsibilities, therefore, will begin with the kindergarten or pre-school nursery--or even before-- and extend through university academic work.

Michigan has long been acknowledged a leader in education at all levels. This heritage of greatness most certainly must be maintained, protected and perpetuated, and I believe that you, as members of the State Board of Education meeting here today for the first time, are equal to the task. . . . !

There must have been some misgivings in the minds of the members of the new State Board of Education as to the validity of that final charge by Dr. Bartlett, "You . . . are equal to the task." That task before them was filled with complex problems and critical issues. Among those problems and issues the most difficult was the task of translating the powers and duties granted to the State Board of Education, both by constitutional and legislative provisions, into a workable, vigorous central education agency for public education in Michigan.

Three of Dr. Bartlett's remarks to the Board at their initial meeting gave particular direction to the new

¹Ibid., pp. 2-4.

members as they contemplated their future responsibilities in the area of higher education. Dr. Bartlett stated that the constitution

also made clear and in addition to its responsibilities for elementary and secondary education, the State Board must now give serious consideration to higher education.

It must, on the basis of careful and thorough study and analysis, determine present and future needs and requirements for higher education, and it must advise and assist in the coordination and planning in order that these needs and requirements can be met.

Part of your responsibilities certainly will be to maintain a broad overview of education, to determine and to establish policy for education, and to act vigorously for the state.1

The new State Board of Education entered the new era in Michigan education with three constitutional provisions and powers for higher education not a part of the older Michigan constitutions. Article VIII, Section 3 had empowered the Board with (1) "general planning," and (2) "coordinating" of all public education with the power to (3) advise the legislature as to the financial requirements" stemming from these general planning and coordinating activities. These were new powers not previously held by any one agent of educational governance in Michigan. These functions involving higher education had formerly been the responsibility of the general governance, the legislative and executive branches. The old State

¹Ibid., p. 3.

institutions of higher education under their jurisdication. In addition, some voluntary coordination had been attempted by the public institutions of higher education through their three organizations involving presidents and board members. None of these arrangements had met the needs for general planning and coordination for all public education, including higher education. This was a crucial need as perceived by the writers of the new Michigan constitution. Section 3 of Article VIII of the new constitution was the solution devised by the convention and approved by the citizens of Michigan. General planning and coordination of all education in Michigan, including higher education, had now been constitutionally moved from general government to special government in Michigan and was the responsibility of the State Board of Education as the central education agency in Michigan.

The major task that confronted the State Board of Education in its initial year and decade of operation was the task of actually implementing these new constitutional powers and provisions effectively. Sturm has noted that "the effectiveness of every constitution depends on the manner in which its provisions are interpreted and its mandates carried out." Bartlett, in his charge to the Board, had urged them "to maintain a broad overview of

¹Sturm and Whitaker, Implementing a New Constitution, p. 1.

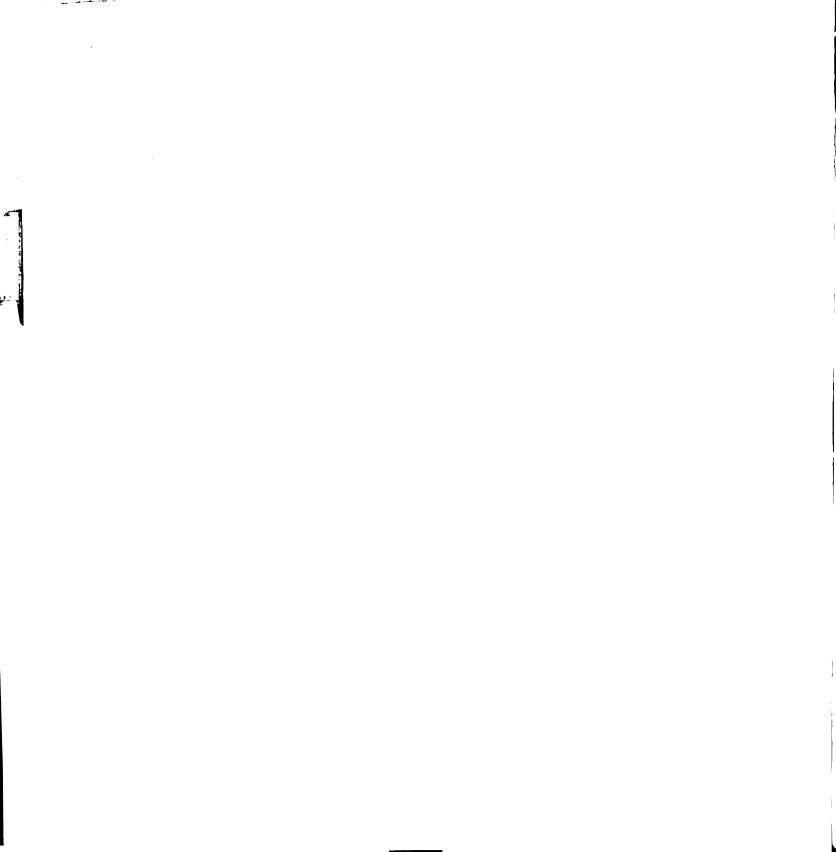
education, to determine and to establish policy for education, and to act vigorously for the state. . . . "1

The sections that follow describe, analyze, and assess the policies and actions of the State Board in carrying out these constitutional and legal provisions related to all public education from the initial meeting in January, 1965 through June, 1963. The focus will be how effectively the State Board translated its new powers for all public education into a workable, vigorous central education agency in Michigan.

Perhaps the major difficulty that confronted the State Board initially was the late start in grappling with the rapidly increasing student enrollments and educational costs in Michigan. The Board, created to plan for and coordinate future enrollments and costs, held its first meeting the <u>same</u> year the first class of post World War II babies entered college. In May, 1963 there were 75,053 seniors enrolled in Michigan high schools; in May, 1964, there were 91,039; and in May, 1965, there were 110,927 seniors, an increase of 50 per cent in just two years. The first big increase in Michigan undergraduate college applications and enrollments was the fall of 1964 with

¹Minutes of the State Board of Education, January 13, 1965, p. 3.

Michigan Statistical Abstract, 7th ed., 1968, p. 61.



25,000 more enrolled than in 1963. The fall of 1965 experienced an enrollment increase of 23,000. In just two years Michigan college enrollments increased from 160,000 in 1963 to 208,000 in 1965, an increase of 48,000 students. Half of these were in community and junior colleges.

than dollars were available. This fact explained much of the flurry of activity in the legislature, the governor's office and the ten boards of control of the public institutions of higher education, as well as the difficulties that faced the newly created State Board of Education and its administrative agency, the Michigan Department of Education. Of all these agencies, the State Board was the last to be organized for the task ahead. The new Board, as it listened to the challenge and charge of Dr. Bartlett, must have been a bit overwhelmed at the magnitude of the task and the limited time available to accomplish its mandate.

The late start as the state's central education agency did not deter the board from acting vigorously in fulfilling its mandate. A review of the minutes of the State Board during 1965, its first year of existence, revealed that the board had held thirty-two scheduled

These figures on college enrollments are from the Report of the Citizens Committee on Higher Education, March, 1965 (Lansing: The Governor's Office), pp. 2 and 8.

meetings. In his "Year-End Report of Board Activities,"
Mr. Brennan, President of the Board, stated, "The State
Board of Education marks the close of its first year with
its sixty-fifth day of meetings . . . today."

The agenda of that first January meeting of the board was an apt microcosm of the emerging powers and functions of the Board. Items that reflected powers and functions were (1) reports from the state institutions directly under the Board's jurisdication; the School for the Blind, the School for the Deaf, and the Michigan Rehabilitation Institute, (2) federal funding procedures and regulations, (3) appointment of the Advisory Board for Public and Community and Junior Colleges, a constitutional duty, and (4) approval of teacher certification applications. One member urged that "one of the first orders of business should be the selection of the new Superintendent of Public Instruction." Dr. Bartlett distributed copies of budget requests, department organization charts, and salary schedules, all matters that fell under the jurisdiction of the Board.

The first February meeting was largely devoted to the organization of the Board, the adoption of by-laws and the election of officers. The by-laws established meeting

Minutes of the State Board of Education, December 22, 1966, p. 153.

²Minutes of the State Board of Education, January 13, 1965, p. 12.

dates, procedures for voting, and offices and duties of the Board. Considerable discussion occurred concerning the constitutional duties of the Superintendent of Public Instruction, particularly in relation to those of the President of the Board.

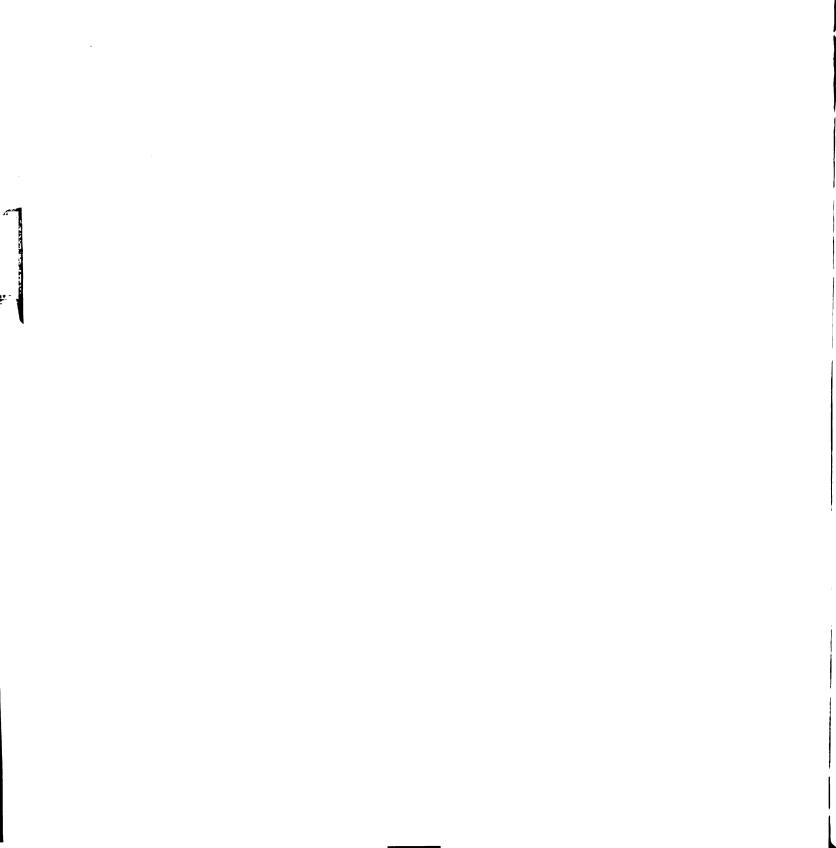
officers were then elected by a secret ballot without the right to succeed themselves. Officers elected were Mr. Brennan, president; Dr. Fill, vice-president; Dr. Novak, secretary, and Dr. Morton, treasurer. In addition, an Administrative Secretary to the Board was authorized to "perform the duties assigned to him by the Board under the supervision of the Superintendent." 2

A resolution passed at this meeting provided a clue to the major difficulty ahead for the State Board of Education in fully fulfilling its functions as the central education agency of the state in the succeeding months and years. The resolution, passed unanimously, read as follows:

We understand and appreciate the Governor's deep concern for the responsibilities of the State Board of Education. However, we do not feel that this concern was expressed either adequately or realistically in

¹ Minutes of the State Board of Education, February 10, 1965, pp. 28-29.

² Ibid., p. 27. This position was filled on May 11, 1966 with the appointment of Mr. Ladislaus B. Dombrowski. Mr. Dombrowski has held this position continuously since that time and has been most helpful in supplying information concerning the State Board of Education for this study.



the budget recommendations of the Governor for the State Board of Education's minimum request for support or for the support of education in general.

If the State Board of Education is to fulfill the duties and responsibilities commanded by the people in the Constitution, then an adequate budget and staff is mandatory.

We strongly urge that the full budget request of the State Board of Education be favorably considered and acted upon by the Legislature. 1

While the new constitution had contained provisions that enlarged the powers and functions of the Board, it had also retained budget powers firmly in the office of the Governor and retained intact the appropriations power of the legislature. The "big school board," at least in terms of money, was still the Michigan legislature.

Higher Education--"The Boiling Cauldron"

The big issue that occupied much of the time of the Board during its first months, year and decade first appeared on the agenda of February 23, 1965. The issue involved the powers and functions of the State Board of Education in higher education in relationship to (1) the public universities, (2) the legislature, and (3) the executive branch. The specific item on the February agenda was the proposed expansion of the Flint College branch of the University of Michigan. The issue at stake was whether either the University of Michigan or the state legislature

¹ Minutes of the State Board of Education, February 10, 1965, p. 31.

had the constitutional and legal power to make this policy decision without the advice of the State Board of Education. Within sixty days after taking their oaths of office, the members of the new State Board were faced with the major ambiguity contained in the education article of the 1963 Constitution—the powers of the State Board for higher education. President Brennan aptly expressed the sentiments of the new board members when he reported "we were elected and dropped into a boiling cauldron." The "cauldron" of the State Board and higher education was destined to simmer and "boil" throughout the opening decade of the new State Board's activities.

Within the first six months of the Board's operation there were at least a dozen different agenda items related to higher education issues. The major items included (1) a new medical school at Michigan State University, (2) a private osteopathic college, (3) a new four year college at Saginaw Valley, (4) the status of Sault Ste. Marie Branch of the Michigan Technological Institute, (5) the Flint branch of the University of Michigan, (6) doctoral programs at Western Michigan University, and (7) the review of all higher education budgets. In order to provide insight into the processes and complex inter-relationships involved

¹ Sturm and Whitaker, Implementing a New Constitution, p. 183, quoting The Detroit Free Press, March 25, 1966, pp. 1A and 2A.

in these decisions of the State Board of Education in relation to higher education, the case of the Flint Branch of the University of Michigan will be described.

The expansion of the Flint College Branch of the University of Michigan provided the State Board of Education with its first and most significant test of powers and will in the area of higher education. The University of Michigan was the originator of the cherished "constitutional autonomy" of institutions of higher education in Michigan. The essential provisions of the 1963 Constitution stated that "the regents of the University of Michigan . . . shall constitute a body corporate [with] general supervision of its institution and the control and direction of all expenditures from the institution's funds."

The Flint branch of the University of Michigan was opened in 1956 for junior and senior classes only to compliment the two year freshman and sophomore program of the existing but separate Flint Community College. With the rapid rise in freshmen enrollments in 1964 and 1965 the University of Michigan requested appropriations for the freshman class in the fall of 1965 at the Flint branch. This class would become sophomores in 1966 and a four-year branch college program would be in effect. Governor Romney favored withholding the expansion of the Flint branch into a four-year college until the State Board of Education was

¹<u>Ibid.</u>, p. 184.

functioning and could advise on the matter. The Governor requested no funds for the freshman class at Flint in his 1965 budget message to the legislature. The University of Michigan persisted in its plans and requested the necessary appropriations from the legislature. Meanwhile the State Board of Education had been established and was in operation. At the February 23 meeting the board discussed and made its first decisions on the issue of the expansion of the Flint College Branch of the University of Michigan. In a larger sense, the decision was to implement three new powers and functions the State Board had under its constitutional mandate to (1) "serve as the general planning and (2) coordinating body for all public education, including higher education," and (3) "advise the legislature as to the financial requirements in connection therewith."

At the Board meeting on February 23, 1965 Dr.

Bartlett "distributed booklets containing a statement of the immediate need for expansion of the Flint Branch of the University of Michigan which had been presented to the Appropriations Committee of the Michigan State Senate."

The statement by the University of Michigan was presented to the Appropriations Committee, not to the Governor or the State Board of Education. Two related items of interest occurred at that same session of the board.

¹ Minutes of the State Board of Education, February 23, 1963, p. 34.

President Brennan distributed a letter previously written by him to Dr. Harlan Hatcher requesting that he "provide the State Board of Education with a complete and current report on the status of the proposed expansion at the Flint Campus." Dr. Hatcher's response was a letter "inviting the Board to have dinner at the Inglis House." 2

In addition, Senator Lane of the Appropriations

Committee of the Michigan Senate had requested that the

State Board study the Flint issue and make a recommendation
to his committee.

Following an executive session on February 23, the Board reconvened at 9:30 a.m. on February 24, 1965, and passed the motion by Mr. Thurber "that we accede to the request of Senator Lane that the State Board of Education make a study of the University of Michigan-Flint situation and make a recommendation to the Legislature and other interested parties regarding this issue." The motion carried unanimously. A second motion made by Mr. Thurber "that the State Board of Education confirm the calling of a hearing as announced in a letter by President Brennan to Dr. Hatcher, to be held in Flint on March 3, as a step in the fact-finding procedure concerning this issue," was also carried unanimously.

¹Ibid. ²Ibid.

Minutes of the State Board of Education, February 24, 1965, p. 38.

President Brennan of the State Board of Education had taken the first decisive step in establishing the powers and functions of the State Board of Education by requesting the President of the University of Michigan to supply the State Board "a complete and current report on the status of the proposed expansion at the Flint Campus." This was a characteristic and consistent response of Mr. Brennan in all subsequent cases related to powers, functions, and duties of the State Board of Education in matters of higher education. Earlier President Brennan had commented that "on policy matters . . . if we don't create a strong board with its own voice, then this body is going down to oblivion." This was the response of a President anxious to establish the constitutional powers and prerogatives of a new Board in a new era with a new set of relationships in Michigan education.

The actions of the State Board of Education in February to the request of Senator Lane opened another phase of exploratory relationships between the legislative branch of government and the central agency for education in Michigan under the new Constitution. Senator Lane, a powerful figure in the Legislature, had opened this new relationship by requesting the Board to make a study and supply the legislature with a recommendation on the

¹ Sturm and Whitaker, Implementing a New Constitution, p. 177, quoting The Detroit News, February 11, 1965, p. 14A.

Michigan-Flint situation, a recognition on the part of
Senator Lane of the general planning and coordination
function of the State Board of Education for all public
education. The Board responded unanimously to the request
and scheduled a public hearing. The University of Michigan,
the State Board of Education, and the Legislature were now
all involved in an issue vital to their respective powers
and functions.

The fourth major governmental agency with educational responsibilities in Michigan, the Office of the Governor, quickly let its views be known on this issue to the new State Board of Education. Governor Romney, in a letter to President Brennan dated March 5, 1965, two days after the Flint hearing, wrote:

May I commend you on the prompt decision of the Board to hold hearings in Flint on the question of whether or not the University of Michigan Branch there should add the first and second years.

As you know, the only position I took with respect to the addition of these two years to the University of Michigan Branch in Flint was that this was something for the State Board of Education, Governor, and ultimately the state Legislature to decide rather than the University officials, Board of Regents, private citizens and City of Flint [emphasis added]. . . .

As you know, I have not personally undertaken to pass judgement on the soundness of the proposed expansions. My concern has been that the planning and coordinating function of the State Board be fully recognized and that the Legislature's ultimate responsibility be preserved [emphasis added].

Only if this is done can we have an orderly well-planned program of meeting the exploding needs for higher education. 1

Governor Romney's views of the constitutional powers, functions, and relationships of these four governmental agencies, the State Board of Education, the Office of Governor, the Legislature, and the Board of Regents are discernable in this letter. Romney emphasized that the planning and coordinating function of the State Board of Education for all Michigan education be fully recognized. His progression of agencies indicated that (1) the State Board of Education would make initial recommendations in the areas delineated, (2) report these recommendations and their fiscal implications to the Office of the Governor for (3) inclusion in the executive budget of all recommendations to the Legislature which (4) clearly had the final word in all such matters. The phrases, "and ultimately the state Legislature to decide" and "that the Legislature's ultimate responsibility be preserved, are strong statements as to Romney's views on the right of the Legislature to make final decisions after following the proper constitutional order of obtaining State Board of Education and Executive Branch recommendations.

The request of Senator Lane for a recommendation on the Michigan-Flint situation and Govenor Romney's

Minutes of the State Board of Education, March 5, 1965, pp. 48-49.

admonition to arrive at a prompt decision were honored by the State Board of Education at its April 6-7, 1965 meeting. The Board met as a committee of the whole all day April 7, and at 7:15 p.m. reconvened the regular board meeting and unanimously adopted the following statement:

The State Board of Education at its meeting in Lansing on Wednesday, April 7, 1965, recommended that the State Legislature move immediately to authorize the establishment at Flint of an autonomous four-year college [emphasis added] on a campus separate and distinct from the Flint Community College.

The Board also recommended that the existing two-year branch of the University of Michigan at Flint maintain its junior and senior programs for the time being and phase out its Flint commitment at the time the new college is prepared to provide a complete four year education.

. . . It is the intention of the Board that the University of Michigan not plan for freshman level work beyond the current academic year. 1

The State Board of Education had acted promptly and decisively in opposition to the proposal of the University of Michigan for the expansion of the Flint branch as a four-year branch of the University. The Board recommended to the Legislature instead that a new, wholly autonomous four-year institution be established by an act of the Legislature. Governor Romney quickly expressed his support of the decision in a letter dated April 13, 1965 to President Brennan in which he stated:

¹ Minutes of the State Board of Education, April 7, 1965, p. 62.

Thank you for notifying me promptly regarding the State Board of Education's decision with respect to the future of the Flint Branch of the University of Michigan.

On April 8, I issued the following public statement in response to the Board's action:

". . . I commend the sense of responsibility with which [the State Board of Education] dealt with this difficult question.

I believe their decision to be sound and one which should be followed by the University [and] the State Legislature. . . "

By its action on the Flint question, I believe that the Board has demonstrated its determination to be a strong voice in the future development of higher education in Michigan. 1

With the recommendation of the State Board of Education and the Governor's endorsement the matter of the Flint expansion now rested in the hands of the Michigan Legislature and the actions of the Board of Regents of the University of Michigan.

To date, the University of Michigan and the Regents were maintaining a policy of silence, possibly to test the waters of public and legislative opinion, on the actions of the State Board and Governor. At the May 5, 1965 meeting of the State Board of Education, attended by the Governor, the minutes state that: "Dr. Bartlett said he had no official reply from the Board of Regents regarding their position on the Board's decision and asked whether the

¹ Minutes of the State Board of Education, April 14, 1965, p. 73.



Governor or the Board had received any word. No one had"

[emphasis added]. The Governor then urged the Board to meet with the Regents to see if "a mutually agreeable implementation of the Board's decision could be worked out." Brennan's response was to the effect that the Board had "given exhaustive consideration to its decisions on Flint" and he concluded by indicating that the State Board of Education "should not bargain." 2

The decision of the Board then turned to the reactions and actions of the legislature and the public concerning the Board's decision. The minutes record that:

Dr. Morton suggested that a letter be sent to each legislator explaining the rationale of the Board's action. Mr. Thurber said that he and Dr. Morton had met with Mr. Zolton Ferency [State Democratic Party Chairman] who agreed to support the State Board's position in coming discussions with legislative leaders. Governor Romney said this was heartening and certainly indicated bi-partisan support of the Board's decision.

Mr. Brennan said that many people, groups, organizations, and associations have indicated to him that they want to see a strong Board. Governor Romney said that the alternative to an effective State Board of Education is a further centralization of higher education in Michigan. In that connection, Mr. Thurber mentioned that a hearing will be held tomorrow in the Senate on Senate Resolution G. This Resolution would propose to place all institutions of higher education under the direct control of the State Board of Education [emphasis added].3

¹ Minutes of the State Board of Education, May 5, 1965, pp. 76-77.

² Ibid.

^{3 &}lt;u>Ibid.</u> While there is some ambiguity in the meaning of Romney's statement "that the alternative to an

The Board, later in the meeting, discussed the implications of Proposal G; and the minutes record that, "the consensus of the Board was that action to amend the Constitution in this area was premature and that the position of the Board to this effect should be expressed at the legislative hearings on this subject." 1

Education related to the Flint Branch of the University of Michigan and the reactions of other governmental and political agencies in Michigan have been reported in some depth to provide some insight into the difficulties that confronted the Board in its attempt to fulfill its role as the constitutional and legal central education agency in Michigan. There were few easy solutions as each of the various Michigan agencies of general and special governance searched for the new nuances of power that were rightfully theirs under Michigan's new 1963 Constitution. The clarification of these powers, function, and duties often took

effective State Board of Education is a further centralization of higher education in Michigan," a later interview by Sturm held on July 22, 1966 with Walter D. DeVries, executive assistant in the office of the governor and former con-con delegate, provided clarification. Sturm reported that: "Governor George Romney consistently maintained that the state board of education must have a strong co-ordinating and planning role in the development of new institutions of higher education; he has suggested that, if the universities themselves cannot co-operate voluntarily in such planning, their constitutional autonomy might have to be reconsidered, presumably giving way to more centralized control." Sturm and Whitaker, Implementing a New Constitution, p. 190.

¹<u>Ibid.</u>, p. 79.

the tedious, winding path of discussion, compromise, stalemate and even deadlock. Such was the case of the State Board of Education--University of Michigan, Flint Branch controversey. After the May 5, 1965 meeting of the State Board, the Flint situation was reported on periodically at Board meetings but no significant discussions were reported in Board minutes over the next two years. Sturm sums up the Flint issue:

In the case of the Flint branch, the governor, the state board of education, the attorney general, and the Flint Community College were arrayed against the University of Michigan and Flint community leaders.
. . [There was a] division of opinion in the legislature on the matter.

Sturm continues:

Eventually, after months of negotiations failed, time factors and pressures from proponents of the Flint branch resulted in enrollment of the 1965 freshman class; the same factors prompted the governor to include provision for the second class in his 1966 budget, but he insisted that the branch be severed from the University of Michigan by 1971 and become a separate institution.1

The Flint campus was still a four-year branch of the University of Michigan in 1973.

Advisory Committee Reports

Two published reports in late 1964 and early 1965 supported and strengthened the position of the State Board of Education in their stand on university branches in Michigan. The first report, published in December, 1964,

¹ Sturm and Whitaker, Implementing a New Constitution, pp. 184-85.



was authorized by the Michigan Coordinating Council for Public Higher Education, an organization of the public four-year higher education institutions. The Report of the Advisory Committee on University Branches was prepared by a panel of five non-Michigan educators selected by the Coordinating Council to make recommendations on the branching issue.

Sturm summarized the major recommendations of the advisory group, stating that the report "advised against further university branch institutions until a plan for higher education had been prepared." The report supported the constitutional role of the State Board of Education in planning and coordinating higher education. Sturm concludes his summary as follows:

The report stressed the necessity for the development of a comprehensive plan for higher education, which should be given high priority by the state board of education. To assist the state board, the report suggested an advisory council for planning and co-ordinating higher education, supported by an adequate budget and staff.²

The University of Michigan refused to support the recommendations of the advisory panel and the report was not adopted by the sponsoring organization.

The second report, published in March, 1965, was the final report of the advisory committee appointed by Governor Romney in the spring of 1963 to study all higher education in Michigan. This "blue-ribbon" committee of

¹Ibid., p. 183.

fifty-six Michigan citizens produced six study committee reports and "a Consolidated and Summary Statement of Findings and Recommendations." Dan E. Karn, a former Con-Con delegate and member of the education committee, was chairman. Alvin M. Bentley was chairman of the sub-committee on finance.

In general, the Citizens Committee strongly supported the Michigan constitutional principle of autonomously governed institutions of higher education.

The State Board of Education benefited significantly from the timeliness of the Report of Citizens

Committee on Higher Education. Published in March, 1965, the third month of the existence of the State Board, the report strongly supported the constitutional mandates to the State Board of Education and provided data and specific recommendations needed by the Board in the decisions confronting it in higher education. In addition, and perhaps of most significance, the report suggested strategies for increasing the stature and authority of the State Board as the central planning and coordinating agency for all Michigan education. It is not evident, from a study of the Board minutes during the months that followed, how fully the Board recognized or utilized the contribution of the

Report of Citizens Committee on Higher Education: Reports of the Six Study Committee and a Consolidated and Summary Statement of Findings and Recommendations (Kalamazoo, Michigan, March, 1965).

report. Only one direct reference to the report was made in the minutes of the State Board on May 5, 1965.

In the letter transmitting the report to Governor Romney, dated March 19, 1965, Chairman Karn reviewed the assignments and actions of the Committee and reported that "copies of the report are being provided the state's principal news media, educational institutions, Board of Education, and legislature."

The report contained a "Consolidated and Summary Statement" and the reports of six study committees. One of the Study Committees, Committee IV, had as its assignment the overall planning and coordination of higher education in Michigan.

This committee closed the preface to its report with an interesting and significant statement: "In making this report, the committee has accepted the educational philosophy of The Constitution of the State of Michigan, adopted in 1963; all of the committee recommendations are intended to be in harmony with it." In a footnote to this excellent ten-page report the committee noted that the report

deals with the problems that the State Board of Education will meet in carrying out its constitutional charge to "serve as the general planning and

lpid., Preface.

² <u>Ibid.</u> Report of Study Committee IV, "Overall Planning and Coordination of Higher Education in Michigan," p. IV-Preface.

coordinating body for all public education, including higher education," while at the same time the state-supported universities and colleges are constitutionally endowed with autonomous governing boards of control. 1

The report provided an excellent summary of Michigan's constitutional view of "autonomy and coordination" as viewed by the Committee. The report stated that:

Michigan's 1963 Constitution granted autonomy to its state-supported universities and colleges as a way of preserving and encouraging diversity, elasticity, and flexibility of educational programs and of stimulating managerial ingenuity and creative drive. But this makes overall planning and coordinating absolutely necessary, for without it, the aggressive management expected of autonomously governed institutions will result in a competitive duplication of undergraduate, graduate, and graduate-professional programs and a multiplication of services, facilities, and campuses throughout the state that will tend to destroy the effectiveness of all higher education. The Constitution, therefore, set up the State Board of Education to serve as the general planning and coordinating body for all public education, including higher education.²

The report then went on to pinpoint the two new powers granted the Board by the 1963 Constitution related to higher education.

The authority of the State Board of Education rests solely upon its constitutional charge to serve as the general planning and coordinating body for all public education and to advise the legislature as to the financial requirements in connection therewith. It was given no direct enforcement powers [emphasis added].3

^{1 &}lt;u>Ibid.</u>, p. IV-1. 2 <u>Ibid.</u>, pp. 26-27.

^{3&}lt;u>Ibid</u>., p. 28.

Committee IV in its report restated these two new constitutional mandates to the State Board of Education in such a precise manner that real direction was given to the State Board in its efforts to act effectively in the area of higher education. The Committee stated: "The Constitutional charge to the State Board as the general planning and coordinating body for all public education to 'advise the legislature as to the financial requirements in connection therewith' becomes basic" [emphasis added].

The real power of the Board as interpreted by this committee was its right to advise the legislature on financial requirements which meant that "the Board must review institutional budgets and requests for approriations in view of coordinating the development of educational programs, campuses and institutions" [emphasis added].

2

Committee IV was well aware that the second essential relationship required for an effective State Board of Education was the acceptance by other governmental bodies, especially the legislature, of its recommendations. In a summary of these essential relationships of the State Board of Education the report states:

The ability of the State Board of Education to carry out its charge to do overall planning and to coordinate higher education will depend heavily upon the support of the public, the legislators, and the governor and other state administrative officers. Much will depend, also, upon the Board's ability to win the respect and cooperation of the higher education

^{1 &}lt;u>Ibid.</u>, p. IV-3.

² Ibid.

institutions themselves. But in the end, the Board's ability to secure cooperation and compliance on major issues will fall back upon how well it carries out its constitutional charge to advise the legislature as to financial requirements and how well the legislature and the various departments of the state support it in carrying out that charge [emphasis added]. I

Two essential strategies were suggested to the State Board of Education by the Citizens Committee on Higher Education at a most opportune time in the early history of the Board. The committee saw clearly that the effectiveness of the Board as a planning and coordinating agency for higher education depended on the Board giving sound fiscal advice that would be accepted and acted on by the legislature. To insure this acceptance and action, the Board was urged to gain information and advice from prestigious citizens' committees, selected to enhance the legitimacy of the Board and its recommendations in the eyes of the legislature. In the "boiling cauldron" that engulfed the Board during its first year, it is doubtful that the Board had the time to fully appreciate and act on this advice.

The members of Citizens Committee were political realists and their final recommendation anticipated the real issue the State Board would in all probability face: the refusal of an autonomous institution to follow the recommendations of the State Board. In this case the Citizens Committee emphasized that:

l_{Ibid}.

It is the belief of the Citizens Committee that, if an institution should choose to stand upon its autonomy and determine to go ahead with a program in conflict with a recommendation of the Board supported by an advisory committee of the kind proposed, the Board would be in a strong position to advise the legislature against appropriating funds for such a program and the legislature would be in a strong position to support the Board. 1

In the real world of constitutional and legal powers, these words of advice convey the strengths, and limitations, of the powers of the State Board of Education for higher education.

A State Plan for Higher Education

There was certainly no shortage of opportunities for the State Board of Education to test the advice of the Citizens Committee on Higher Education. Each meeting of the new State Board of Education had one or more new or recurring agenda matters related to higher education. The case of the expansion of the Flint Branch of the University of Michigan had involved all the issues highlighted in the Report of the Citizens Committee on Higher Education. The results of Board efforts had been at best a stalemate. However, other discussions and decisions of the Board in the area of higher education had moved with more dispatch and success. The actions of the Board on the Michigan State University College of Human Medicine illustrated a

^{1 &}lt;u>Ibid.</u>, p. IV-6.

successful cooperative decision between the State Board and a major constitutionally autonomous university.

It became increasingly apparent to the State Board that the recommendation of the Citizens Committee to make maximum usage of advisory committees was a necessity if successful decisions were to be made by the Board and carried out by the other governmental and educational agencies involved. The first such committee formed was the Committee on Education for Health Care. This committee provided advice and counsel on the request of Michigan State University for the expansion of its plans for a College of Human Medicine. In turn, the Committee on Health Care was involved in the controversy surrounding the request made to the "old" Board of Education for an Osteopathic Medical College.

The general planning and coordinating powers of the State Board of Education in the area of major program additions at an institution of higher education were clarified and developed in the case of the planned expansion of the College of Human Medicine at Michigan State University. In this case, instead of the stalemate, a cooperative decision was reached between the State Board and the Board of Michigan State University. The process of arriving at this decision involved the successful functioning of a prestigious Advisory Committee on Education for Health Care, a pattern that had been recommended by the Governor's Citizens Committee for Higher

Education. Intertwined with these processes was an important interplay with the Senate Appropriations

Committee of the Michigan Legislature related to the powers and relationships of the State Board and the Legislature.

The State Legislature had approved a two-year school of Human Medicine at Michigan State University in 1962. The eventual goal was the development of a third full-fledged medical school at Michigan State University to meet the needs of the state for additional physicians. The establishment of the new State Board of Education in 1965 at the very time that the expansion of the university's medical school to four years had been planned, provided another opportunity for working out the constitutional powers and relationships between the State Board and an autonomous institution of higher education. Dr. Bartlett briefed the Board on this pending decision at the meeting of March 9, 1965. In April, Mr. Brennan appointed an ad hoc Medical Education Committee of three board members "for the purpose of making a study of the needs and development of medical education in Michigan." In May this committee met with the University of Michigan, Wayne State University, and Michigan State University representatives, including Mr. Huff, chairman of the Michigan State University

¹ Minutes of the State Board of Education, April 14, 1965, p. 72.

governing board. There was general agreement among the universities on the need for an additional medical school and Mr. Huff reported at the June State Board meeting that Michigan State University "would not proceed without State Board of Education approval" [emphasis added]. At this June meeting the Board requested that the presidents of the three universities involved make recommendations for a citizens' advisory committee on needed medical facilities and that "appropriate representatives of the medical program of each university meet and study with the committee of the State Board of Education the status of medical education." At the meeting of November 17, 1965, the Board minutes indicated that the concerns of the State Board were related only to the expansion of programs at the Medical College at Michigan State University. A resolution adopted at this meeting clearly expressed the developing philosophy and strategy of the Board.

WHEREAS, The State Board of Education, in discharging its constitutional responsibility for planning and coordinating higher education, has expressed its interest and concern in the development of medical education in Michigan; and

WHEREAS, The State Board of Education, in pursuance of this constitutional mandate requested Michigan State University to present its plans for its college of human medicine--which was done on October 27, 1965; and

Minutes of the State Board of Education, June 2, 1965, p. 97.

² Ibid.

- WHEREAS, The State Board of Education appreciates the cooperation expressed by Michigan State University in its extensive report on its plans in the field of medical education; and
- WHEREAS, The State Board of Education accepts the present status of the Michigan State University College of Human Medicine as authorized by the Legislature in 1962; . . .
- NOW THEREFORE BE IT RESOLVED, That the sub-committee on medical education be and is hereby directed to proceed forthwith to
 - (1) convene the deans of the medical schools . . .
 - (2) establish an advisory committee . . . to assess Michigan's medical education . . .
 - (3) request the presidents . . . to keep the State Board of Education informed of proposals currently being developed . . .
 - (4) inform the Michigan State University authorities that any further expansion of the existing program at Michigan State University is a matter that properly must be determined by the State Board of Education in carrying out its constitutional responsibility for planning and coordinating all higher education [emphasis added].1

It was also clear from the resolution that the Board appreciated the cooperation of the University and its board. In turn, it made university personnel central to future planning of both the Board and its Medical Education advisory committee. The resolution closed, however, with a clear reminder that the State Board was the state planning and coordinating agency for any future plans for expanded or new programs. In relationship to the Legislature, the Board did not interfere with past decisions, but did reaffirm its planning powers for current and future

Minutes of the State Board of Education, November 17, 1965, pp. 113-14.

decisions. The pattern established in this resolution was consistently followed by the Board in the numerous issues it faced in implementing its constitutional powers for higher education.

The State Board of Education subsequently appointed two committees: a sub-committee of the three deans of the medical schools as an advisory body to the State Board, and a prestigious advisory committee "to be known as the Committee on Education for Health Care." This committee included such citizens as Benson Ford, Harding Mott, and Supreme Court Justice Otis Smith. One year later the major recommendations of this advisory committee for health care were submitted to the Board. The Board discussed these recommendations at its meeting on December 7, 1966 with the discussion centering on the recommendation that "the State Board should approve without delay the request of Michigan State University to expand the scope of its College of Human Medicine so as to enable it to grant the M.D. degree." The request for the four-year program was delayed until the January 25 meeting of the Board. At that time the motion on the Michigan State proposal for a fouryear College of Medicine was again submitted. Dr. Novak moved, seconded by Miss Kelly, that "the State Board of

¹ Minutes of the State Board of Education, December 8, 1965, p. 136.

Minutes of the State Board of Education, December 7, 1966, p. 185.

Education accept the recommendation of the Committee on Education for Health Care and approve the request of Michigan State University to expand its College of Human Medicine to grant the M.D. Degree."

The motion carried with five ayes, two abstentions, and one member absent.

Two years after its beginning in 1965, the State Board of Education had accomplished its first major action in relationship to its constitutional powers of planning and coordinating higher education. The State Board had worked cooperatively with the board and administration of one of the major autonomous universities through professional and lay advisory committees to achieve a mutually satisfactory decision. In the process it had succeeded in establishing precedent in both policy-making and operating procedures in carrying out its constitutional mandate.

The issue of what to do with the Michigan College of Osteopathic Medicine became a perennial agenda item for the State Board of Education. Of importance to this study was the fact that it was State Board approval of this institution that had prompted Senator Robinson to request an opinion of the Attorney General on the following question: "May the legislature without a recommendation from the State Board of Education pass legislation setting

¹ Minutes of the State Board of Education, January 25, 1967, p. 251.

up a state university or college?" On October 5, 1965 the Attorney General Frank J. Kelley responded in a letter to Senator Robinson. The substance of this letter has been treated in Chapter III of this study.

The point made here is that this opinion of the Attorney General that the "legislature cannot impinge upon this authority by providing for a new state university or college without the prior advice, determination and recommendation of the State Board of Education," gave the State Board, in its first year of existence, a legal interpretation that freed the Board to proceed with dispatch in its general planning, coordination, and fiscal advising powers and functions. The initial strong stand of President Brennen and the Board now had the backing of a legal opinion which was not challenged in the courts until 1967 by the major universities and upset by the decision of the Circuit Court on December 6, 1971. The appeals to that decision are still pending before the Supreme Court. importance of the favorable opinion of the Attorney General to the State Board was that it "bought time" for the Board to establish policies, set procedures, and develop plans that have, over the initial seven years, enhanced the planning and coordination functions for public higher education in Michigan.

¹ State Plan for Higher Education, p. 93.

Encouraged, if not prompted by the Attorney General's opinion, the State Board began to organize for the task of planning for higher education in Michigan. On December 8, 1965 an ad hoc committee of four Board members was appointed to develop "an approach to the state plan for higher education." A month later, January 12, 1966, this committee submitted a report recommending that a director be employed and a state Steering Committee be appointed. By mid-summer the Bureau of Higher Education of the Department of Education, under the leadership of Dr. John Porter, outlined a system of program planning and approval for all institutions of higher education. Each institution was to (1) prepare a three-year plan for new programs which (2) the State Board would then review against a (3) State Plan for Higher Education and (4) make its decision on the need for the program utilizing (5) the advice of review committees from outside and within the Department of Education. 2 By the time of this meeting, Dr. Harold Smith had been named Director of the State Plan for Higher Education. On August 23, 1967 a Citizens' Advisory Committee for

Minutes of the State Board of Education, December 8, 1965, p. 138.

Minutes of the State Board of Education, August 10, 1966, p. 42.

Higher Education of thirty-five members was approved. 1
Former Governor G. Mennen Williams served as chairman.

In September, 1968 a provisional draft of the State Plan was published and in February, 1970 the revised report was made available to the public. The Board had utilized five study committees of university and college personnel and citizens and the Citizens' Advisory Committee. 3 By the close of its fifth year the State Board of Education had accomplished a major goal in its responsibilities for planning and coordinating higher education in Michigan. It had established a procedure whereby institutions of higher education advised the Board of their three-year projections for new programs and had developed a State Plan against which advisory committees and department personnel could advise the Board as to its needs. The advice of the Citizens' Committee for Higher Education appointed by Governor Romney had not gone unheeded by the State Board and their two successive Superintendents, Ira Polley and John Porter. Through the combined efforts of advisory committees

¹ Minutes of the State Board of Education, August 23, 1967, p. 46.

² State Plan for Higher Education in Michigan, Provisional, Harold T. Smith, Director (Lansing: Michigan Department of Education, September, 1968); State Plan for Higher Education in Michigan, Revised (Lansing: Michigan Department of Education, February, 1970).

³State Plan, Revised, Appendix A, "Study and Advisory Committees," pp. 67-75. Appendix D of this report contains the letter of the Attorney General to Senator Robinson, dated October 5, 1965, pp. 93-98.

of citizens and members of the institutions of higher education the State Board had developed a plan for Michigan higher education. Its remaining challenge was to advise the legislature as to the fiscal needs for the programs recommended under the State Plan.

Executive Reorganization: Department of Education

One of the major forces at work in Michigan during the twentieth century was political and administrative movement towards more centralized and bureaucratic agencies of government. The reforms of Governor Groesbeck, the "Little Hoover Commission" studies, and 1958 legislative actions were evidences of these efforts to bring the many executive offices, commissions, and agencies into a more centralized, manageable organizational structure. The issue of executive reorganization had been a major force in the call for the 1961-1962 Constitutional Convention. Executive Branch Committee, of which Bentley was a member, in Committee Proposal 71 advocated that the executive branch of the government have no more than twenty principal departments other than the offices of the Governor, Lieutenant Governor, and the governing boards of institutions of higher education. This was adopted and became Section 2 of Article V in the new constitution. The

constitution stated that the departments "shall be allocated by law."

Act 380, known as the Executive Organization Act of 1965, carried out this constitutional mandate. The Office of the Superintendent of Public Instruction was made a type III transfer which meant that "the abolishing of an existing department . . . and all its statutory authority, powers, duties, functions, . . . are transferred to that principal department as specified under this act" (Chapter 1, Section 3c) Act 380 (1965).

Chapter 13 (Section 300) of Act 380 created the
Department of Education. Section 301 of Chapter 13 states
that "the head of the department of education is the state
board of education established by the state Constitution of
1963." Section 302 transferred "all powers, duties and
functions vested by law in the [old] board of education
. . . by a type I transfer to the department of education."
A companion clause, Section 303, transferred "all powers,
duties and functions now vested by law in the superintendent of public instruction by a type III transfer to
department of education." Sections 304 and 305 restated
the constitional language of an elected board and an
appointed superintendent. This Act, in six brief sections,

A case study of this area is in Robert S. Friedman, The Michigan Constitutional Convention and Administrative Organization, Michigan Governmental Studies No. 44 (Ann Arbor: Institute of Public Administration, The University of Michigan, 1963), pp. 156-62.

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confirmed what twentieth century leaders in both general and educational governance had been advocating.

Michigan now had a central education agency with all major powers, duties and functions accumulated through four constitutions and hundreds of legislative acts over a period of 125 years, 1837 to 1963. The Executive Reorganization Act specifically exempted the boards of the institutions of higher education. These institutions retained the historic powers and functions accumulated over that same span of time by the now "first among equals," the University of Michigan. But the implementation of the constitutional provisions related to the State Board of Education was only a part of the impact of Act 380 on the Michigan Department of Education. This Act required no more than twenty principal departments. Act 380 transferred five major commissions or agencies to the Department of Education. These were the Tenure Commission (Section 306); the Higher Education Facilities Commission (Section 307); the Higher Education Assistance Authority (Section 308); and the State Board for Public Community and Junior Colleges (Section 310). All of these agencies had a type I transfer which implied that all administrative functions except budget and fiscal duties remained independent of the Department of Education. The key powers of the Department for these agencies were fiscal. One additional agency, the State Board of Libraries, was transferred to the Department of Education.

On October 26, 1965 the then Lieutenant Governor William G. Milliken issued Executive Reorganization Act Directive No. 1965-5 to the State Board of Education to become effective on November 15, 1965. The Governor's opening words were: "Today, I have signed into law Executive Order 1965-5 creating the principal Department of Education in the Executive Branch of the Government." His closing remarks were a reminder to the State Board that "the final product of reorganization—a modern system of government will better enable the State of Michigan to serve the interests of its rapidly accelerating population in a responsible and responsive manner."

Those words of the Governor expressed not only the hopes of those in the legislature who had written Act 380; but they echoed the aspirations of Alvin Bentley and his committee in the recent constitutional convention; and the less audible, but still distinct, tones of John Pierce and Isaac Crary as they sat on their log on a Marshall hilltop. And to those who had eyes to see and ears to hear, in the current governor's words one could discern the faint but indelible trace of the pen of Michigan's first philosopher-king, Augustus Woodward, as he wrote:

WHEREAS, the means of information are deplorably deficient in this Territory, and

WHEREAS, "knowledge being necessary to good government, schools, and the means of education shall forever be encouraged," therefore

RESOLVED, that it be expedient to provide by law for establishment of one or more seminaries of learning in the Territory of Michigan embodying in one concurrent channel all the learning and talents, all the erudition and genius, of the human race.

CHAPTER V

SUMMARY AND CONCLUSIONS: AN ASSESSMENT OF THE STATE BOARD OF EDUCATION

The major purpose of this study has been to describe, analyze, and assess the significance of the constitutional and legal development of the central education agencies in Michigan from 1805 to 1973. The development of the University of Michigan, the Office of the Superintendent of Public Instruction, and the State Board of Education have been studied. The central focus has been on the development of the powers, organization, and functions of the State Board of Education as the Central Education agency in Michigan before, during, and after the 1961-1962 Constitutional Convention in Michigan.

The State Board of Education has been defined as a legally constituted body having the major responsibility for the general supervision of elementary and secondary education in Michigan with partial responsibility for public higher education. As the central education agency it is characterized by state-wide jurisdiction and is composed of

an elected Board, an appointed Superintendent, and a professional staff, the Department of Education.

This chapter presents the writer's summary of the facts and his inferences and conclusions as to the constitutional and legal status of the State Board of Education as the central education agency of Michigan.

Summary of the Facts

The overarching problem considered in this study is whether the State Board of Education has become the contitutional and legal central education agency for all public education in Michigan. The general hypothesis has been that it has become the central agency except for the constitutional powers and functions reserved for the public colleges and universities.

The State Board of Education in Michigan was established by statute in 1849. In the Michigan Constitution of 1850 (Article XIII, Section 9) the Board was given the power of general supervision of the state normal school with duties prescribed by law. This was a significant development in that constitutional recognition meant that the Legislature could not abolish the Board by legislative act. In 1889 the Legislature made the fourmember State Board a "body politic and corporate" (Act 194) which set the basic statutory pattern for the Board from that date until 1964. From 1889 until 1964 the State Board was granted "by law" the powers and functions of general

supervision over three additional state normal schools, the certification of all teachers, and approval of all teacher education programs in public and private colleges and universities. The Board was given other duties by the Legislature that, in the main, required the discretionary judgment of a board. Between 1849 and 1964 the State Board of Education became the central education agency in Michigan for selected functions primarily related to higher education in Michigan.

The most significant historical event in the development of the powers, organization, and functions of the State Board of Education as the central education agency in Michigan was the 1961-1962 Constitutional Convention in Michigan. The constitution approved by this convention and ratified by the citizens of Michigan abolished the four-member State Board and established a Board of eight elected members with powers to appoint a state superintendent. The superintendent was the principal executive officer of a state department of education which had powers and duties prescribed by law (Article VIII, Section 3). The central education agency established by the constitution now included the State Board, the Superintendent, and the Department of Education.

The State Board had two major powers; (1) leader-ship and general supervision over all public education,

except public four-year institutions of higher education,
and (2) general planning and coordination of all public

education, <u>including</u> higher education, with the duty to advise the legislature as to the financial requirements connected with the planning and coordination functions.

The powers of the boards of institutions of higher education provided in the constitution to supervise their institutions and control and direct the expenditures of their institutions' funds were not to be limited by the second major power of the State Board. The 1963 Constitution deleted the power of the State Board of Education for general supervision of the four state teachers' colleges, and gave each institution a governing board.

The legislature was required to implement the provisions of the 1963 Constitution by law. This was done in relationship to the State Board through Public Act 287 (1964), Sections 1 through 17. Section 14 of this Act transferred all the powers and duties of the existing Office of Superintendent of Public Instruction to the State Board of Education. Section 17 repealed the existing statutes, Act 194 (1899) governing the original State Board. The provisions of Act 287 became effective January 1, 1965.

The new Michigan constitution reorganized the executive branch into not more than twenty principal departments (Article V, Section 2). The legislature implemented this provision through Public Act 380 (1965), and Chapter 13 of that Act created the Department of Education. This Act stated that the State Board of

Education is the head of the Department of Education and transferred all existing powers, duties, and functions of both the former State Board and Superintendent of Public Instruction to the Department of Education. In addition, Act 380 transferred five major commissions or agencies to the Department of Education. Additional legislative acts have transferred other agencies, including the State Board of Control for Vocational Education (Act 28, 1964), to the Department of Education.

The major ambiguity in the powers and functions of the State Board of Education under the 1963 Constitution is in the area of higher education. Article VIII, Section 3 states that the State Board of Education "shall serve as the general planning and coordination body for all public education, including higher education, and shall advise the legislature as to the financial requirements in connection therewith" without limiting "the power of the boards of institutions of higher education provided for in this constitution to supervise their respective institutions' funds."

The Attorney General advised the legislature on October 5, 1965 that the State Board had been granted broad powers for planning and coordinating higher education, and the legislature could not impinge upon this authority "without the prior advice, determination and recommendation of the State Board of Education." On December 6, 1971, an opinion by Judge Marvin Salmon of the Circuit Court of

Ingham County ruled that the State Board of Education

"lacks the authority to require the institutions of higher education to obtain its approval before implementing any new programs or expanding branch campuses or departments."

The case is now before the Michigan Supreme Court.

By April 1, 1973, the tenth anniversary of the ratification date of the current Michigan constitution, the State Board of Education had been implemented as the constitutional and legal central education agency in Michigan for all public elementary, secondary, and two-year public college education. The constitutional powers and functions of general planning, coordination, and fiscal advice to the legislature for all public education, including higher education, had been implemented except for the public four-year colleges and universities, a matter currently under adjudication in the Michigan courts.

Inferences and Conclusions

The facts of the constitutional and legal development of the powers, organization, and functions of the State Board of Education in Michigan do not adequately explain the historical development of the State Board of Education over the past 125 years in Michigan. This study has attempted to analyze this development of the State Board in light of related demographic, economic, political, and educational events and movements in Michigan. This historical investigation has examined the constitutional

and legal facts related to the State Board against the background of these events and movements in light of the general hypothesis that the State Board of Education has become the central education agency in Michigan for all public education in a manner that has preserved certain essential elements of the constitutional autonomy of the four-year institutions of higher education in Michigan.

The basic assumptions underlying this study are that (1) the four Michigan constitutions and subsequent legislative acts have determined the essential powers, organization and functions of the State Board, that (2) these legal provisions have presented a pattern of the changes desired by the citizens of Michigan for state educational governance and that (3) the recent constitutional and legal changes reflected a desire by Michigan citizens for stronger, more effective, centralized leadership or Michigan public education.

Three ideas, or themes, have provided an interpretive framework for the development of the State Board. The major interpretive theme is that, historically, the governance of education in the American states has moved from the branches of general government to agencies of special governance and that this movement has been a progressive movement with specific powers and functions of education transferred at different times in the history of the development of a state's educational system. The second interpretive theme is that the twentieth century

movement has been toward centralizing more functions of government under strong state executive agencies which has resulted in an increase in the size, scope, and policy-making powers of these state-level agencies, including education. The third interpretive theme is that the state central education agency has increased in size, scope, and policy-making powers because of the increase in the number of emerging educational functions transferred from general to special governance. The functions of the central education agency have been enlarged from data gathering, to regulatory, to service, to leadership functions.

It is against this set of facts, assumptions, and interpretive themes that the following conclusions are made by the writer in assessing the historical development of the powers, organization, and functions of the State Board of Education as the central education agency in Michigan before, during, and after the 1961-1962 Contitutional Convention in Michigan.

The historical investigation of the State Board of Education in Michigan and the related central education agencies has impressed the writer that three major American political perspectives have characterized the constitutional and legal history of the central education agencies in Michigan. For emphasis and brevity the shortest expression of these perspectives is that educational governance in Michigan has moved from a <u>Jeffersonian</u> to a <u>Jacksonian</u> to a <u>Johnsonian</u> perspective. The Territorial period and early

statehood under the 1835 Constitution formed the period of Jeffersonian perspective. The period from the Constitution of 1850 to the 1963 ratification date of the latest constitution comprised a long Jacksonian period. A decade under the Michigan Constitution of 1963 has introduced a Johnsonian perspective in the governance of Michigan education.

Educational governance in Michigan, from 1805 until 1850, the Jeffersonian perspective, was largely in the hands of general government responsible for an emerging rural American state. Three men of that day, Augustus Woodward, John Pierce, and Isaac Crary, were alert to the value and future influence of the legal and constitutional provisions they authored that established two agencies of special educational governance for all Michigan public education, the University and the Office of the Superintendent. The major influence of that period on the current educational scene in Michigan was the insistence on separate constitutional agencies for educational governance for both the primary schools and higher education. A unique Michigan event was the granting of federal lands "to the State" which provided the means for encouraging a state system of public education at all levels in Michigan. During this period just two agencies of special educational governance were established, each with limited powers and duties.

Educational governance in Michigan for the next 110 years under two Constitutions reflected Jacksonian views

and legal patterns favored by Michigan citizens. wanted more officials elected-at-large for short terms and greater restrictions on the legislative and executive branches of general governance. In education, in the Constitution of 1850, this resulted in (1) an elected board of regents with constitutional status for the University of Michigan, (2) an elected Superintendent of Public Instruction continued in the constitution, and (3) a new constitutionally established State Board of Education. The Superintendent and the State Board were each given one constitutional power and others to be "prescribed by law." This "by law" mechanism was the essential device by which emerging educational functions were transferred from general to special agencies of educational governance for the next century in Michigan. The University, a constitutional body corporate, had no such provision and had the two powers of general supervision and control of the expenditure of university funds. The University was protected constitutionally from legislative influence by its constitutional status and the absence of a "duties prescribed by law" provision. While protected from undue legislative influence, it was also prevented from readily becoming an agent of special educational governance for emerging functions. These were assigned by the legislature to the Office of the Superintendent, the State Board of Education or to a newly erected agency such as the State Board of Agriculture. The 1908 Constitution gave

constitutional status to the Board of Michigan State

Agricultural College but changed little else in the powers

or functions of the central education agencies.

The State Board of Education became the central education agency during this period for the functions of training and certifying teachers, a void not adequately filled by either the Office of the Superintendent or the University. With two readily available central education agencies there is some indication that the legislature in the late nineteenth and early twentieth centuries used the State Board for functions requiring the discretionary powers of a board and the Superintendent for functions requiring administrative decisions and actions.

by five million residents and demographic patterns reflected an urbanized, industrialized state. The increased population and enforcement of compulsory education laws increased elementary and secondary enrollments, state aid to the schools and the administrative functions of the Office of the Superintendent. After World War II higher education required a larger amount and percentage of the available state educational funds. Under these pressures, the Executive and Legislative branches sensed the need for some central education agency to plan for and coordinate all public education. Because the Office of the Superintendent of Public Instruction was largely administrative and limited historically and primarily to elementary and

secondary education it was not the complete answer.

Because the Boards of the individual universities were responsible only for their own institutions they were not the answer. The one established agency, constitutionally and historically, that had some responsibility at all levels of education was the State Board of Education.

The 1961-1962 Constitutional Convention reversed the Jacksonian features of decentralized executive powers in Michigan by reducing the number of elected officials to five and the many state agencies to twenty principal departments. The Johnsonian perspective in Michigan education reflected the desire for a strong executive branch and more centralization at the state level. The delegates to the Convention chose to continue the historic practice in Michigan of retaining constitutional recognition or status for the central agencies of educational governance. To meet the need for a central policy-making body that represented all Michigan citizens for all public education, the delegates made the State Board of Education the central education agency in Michigan with power to appoint a superintendent and establish a Department of Education to administer state educational policies and programs. emerging functions of general planning and coordination of all public education were transferred to the State Board. The delegates also removed the operation of any four-year public colleges and universities from the State Board and continued or created a board of control with constitutional status for each of these institutions. The convention delegates also resisted the national trend of establishing either a coordinating or controlling Board of Higher Education in Michigan. By creating just one State Board general planning and coordination of all education in Michigan was centralized in one agency. This agency, the State Board, was given the general supervision of all public education other than higher education.

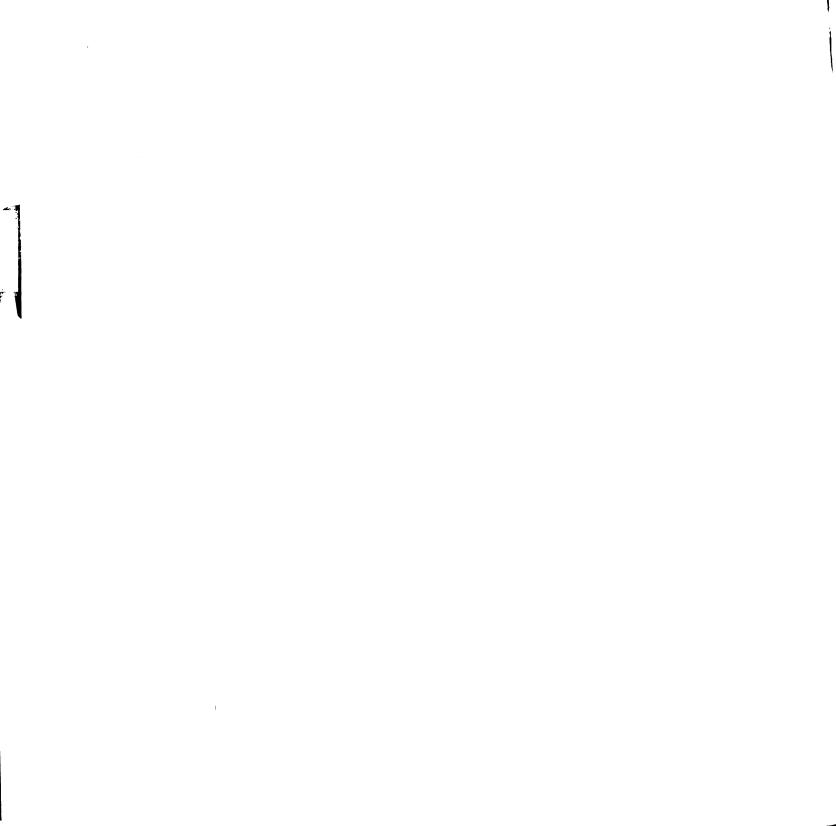
An analysis of the educational provisions of the 1963 Constitution has led the writer to the conclusion that the citizens of Michigan, in their new constitution, attempted to keep the best of two educational worlds. The Constitution was an attempt to preserve the benefits of constitutional autonomy for all Michigan four-year institutions of higher education within a centralized state system of public education constitutionally organized under the State Board of Education. The delegates at the Convention and the citizens that ratified the constitution seeming willing to struggle with the problems of seeking constitutional and legal arrangements that would preserve both of these values and worlds.

Since 1965 the State Board of Education had energetically pursued the implementation of the constitutional and legal powers and functions granted it as the central education agency in Michigan. The reorganization of the Department of Education has enlarged significantly its size, powers, and functions. The Board now exercises the

powers and functions of (1) the former Office of the
Superintendent of Public Instruction, (2) the original
State Board, (other than higher education institutions),
(3) the former State Board of Control for Vocational
Education, and (4) for all public elementary, secondary,
and community college education in Michigan. The Board
has moved vigorously in exercising the powers and functions
for higher education set forth in the Constitution. The
Board has recently joined other agencies of general government in Michigan as a defendant in a legal case designed to
test and clarify the respective division of constitutional
powers and functions between the State Board of Education
and the four-year institutions of higher education in
Michigan.

In 1973 Michigan has a state system of educational governance with one central education agency, the State Board of Education, with constitutional and legal powers and functions for all public education in Michigan. These powers of the Board are limited by the constitutional powers granted the boards of each four-year public college or university. These powers and functions have been granted under three Michigan constitutions and have been enlarged by the legislature as emerging educational functions have been transferred to the Board as an agency of educational governance.

It was the 1963 Michigan Constitution that made the State Board of Education the central education agency in



Michigan with an appointed Superintendent and a Department of Education. The Board was given powers and functions for all public education but in a manner that preserved certain essential elements of the constitutional autonomy of higher education institutions. In the decade since the Constitution was ratified the educational powers of the State Board have been implemented for elementary, secondary, and community college education. The powers for higher education are under adjudication.

Created by the citizens of Michigan in a Jacksonian era of decentralized governance to operate one small normal school, the State Board of Education has reflected the urbanization, industrialization, and centralization that has occurred in Michigan over the past 126 years, and in 1973 has become the constitutional and legal central education agency in Michigan.

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