

A Comparative Analysis of the Michigan Constitution

Volumes I & II

Articles I – XVII



Citizens Research Council of Michigan

1526 David Stott Building
Detroit, 26, Michigan

204 Bauch Building
Lansing 23, Michigan

Report Number 208

October 1961

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FOREWARD

The contributions of many persons and of many sources are involved in the production and publication of this document. The Citizens Research Council is exceedingly grateful for the cooperative efforts that are here represented.

Publication of this document was made possible by grants from W. K. Kellogg Foundation, The Kresge Foundation, McGregor Fund, and Relm Foundation.

Permission of the National Municipal League to use the 1961 draft version of the forthcoming edition of the Model State Constitution is gratefully acknowledged.

Heavy reliance for the provisions of other state constitutions has been placed on the Index Digest of State Constitutions, second edition, Columbia University, 1959, edited by Richard A. Edwards, and prepared under the auspices of the Legislative Drafting Research Fund of Columbia University, John M. Kernochan, director.

In preparing this document, the authors have placed extensive reliance on the Michigan Statutes Annotated, Volume 1. The sections on “Opinions of the Attorney General and Judicial Interpretation” have, for the most part, utilized the annotations written and published by Callaghan & Company in Volume 1 of Michigan Statutes Annotated. The Research Council is grateful to Callaghan & Company, publishers of Michigan Statutes Annotated, for permission to use their copyrighted material. Permission to reproduce any of the copyrighted material from Michigan Statutes Annotated must be obtained from Callaghan & Company.

The extensive contributions of individuals to this publication are revealed in the following series of sincere acknowledgements:

Article II, Declaration of Rights—Mr. Laurent K. Varnum, Varnum, Riddering, Wierengo & Christenson of Grand Rapids, organized the preparation of this Article. Sections 1, 2, 3 and 4 were prepared by the law firm of Clark, Klein, Winter, Parsons & Prewitt of Detroit, under the supervision of Mr. Robert C. Winter; Sections 5, 6, 7, 8, 21 and 22 were prepared by the law firm of Varnum, Riddering, Wierengo & Christenson of Grand Rapids, under the supervision of Mr. Laurent K. Varnum; Sections 9, 11, 12, 13 and 14 were prepared by the law firm of Warner, Norcross & Judd of Grand Rapids, under the supervision of Mr. David A. Warner; Sections 10, 15 and 19 were prepared by the law firm of McKone, Badgley, Domke & Kline of Jackson, under the supervision of Mr. Maxwell F. Badgley; and Sections 16, 17, 18 and 20 were prepared by the law firm of Gault, Davison & Bowers of Flint, under the supervision of Mr. Harry G. Gault.

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Article V, Legislative Department—Professor Charles W. Shull of Wayne State University (Part B, Legislative Apportionment); J. Edward Hutchinson, attorney at law, Fennville, Michigan (Part F, Legislative Procedure).

Article VII, Judicial Department—University of Michigan Law School, Allan F. Smith, Dean.

Article VIII, Local Government—Professor Louis H. Friedland of Wayne State University (Part B, Townships, Part C, Cities and Villages, and Part D, General Provisions).

Article X, Finance and Taxation—The law firm of Miller, Canfield, Paddock & Stone of Detroit. Messrs. John H. Nunneley, Stratton S. Brown, Robert E. Hammell, Fred M. Thrun (Sections 10, 11, 12, 21, 22, 27, and 28.)

Article XII, Corporations—The law firm of Dykema, Wheat, Spencer, Goodnow & Trigg of Detroit, Mr. John R. Dykema.

Article XIII, Eminent Domain—The Legal Division, Wayne County Road Commission, Messrs. Daniel J. Horgan, Jr., James N. Garber, John P. Cushman, and John C. Jacoby.

Article XIV, Exemptions—The Lawyers Title Insurance Corporation, Mr. John G. Heal.

Article VX, Militia—Brig. Gen. Philip C. Pack (Retired), Ann Arbor.

Article XVI, Miscellaneous Provisions—The Lawyers Title Insurance Corporation, Mr. John G. Heal (Sections 8 and 9).

Analyses of articles or parts of articles not listed above were prepared by the staff of the Citizens Research Council of Michigan. We are indebted to Mr. J. Edward Hutchinson, attorney at law, who reviewed a number of the chapters and offered helpful comments.

Citizens Research Council of Michigan
Robert E. Pickup, Executive Director

Detroit, Michigan
October, 1961

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INTRODUCTION

This two-volume analysis of the provisions of the Michigan constitution is the first of three major series of publications to be issued by the Citizens Research Council marking the occasion of the Michigan Constitutional Convention of 1961.

The publication at hand is designed to trace the history of the present state constitution and to compare its provisions with prior documents, with the constitutions of the other states, and with the Model State Constitution of the National Municipal League.

It is not the purpose of this publication to attempt to tell anyone how to change the present constitution. Rather, it is hoped that it will serve to indicate the evolution of the Michigan constitution, to delineate present meaning or interpretation of its provisions, and to draw attention to the significant alternative methods of handling particular subjects as included in constitutions of other states or as contemplated by recognized authorities in state constitutional law.

Suggestions, alternatives and critical or editorial statements have been included, where deemed proper, under the sections marked Comment. It has not been the purpose of the Research Council in publishing its own staff work and the contributed efforts of many other persons in these two volumes to take sides on any particular issue. The reader should, therefore, not confuse criticism with advocacy, nor allow his possible disagreement; with the views of others to obscure the fact that alternatives and differences do, in fact, exist.

An index prepared originally by the legislative service bureau for an official compilation of the constitution issued by the secretary of state has been used herein, in each volume, for the convenience of the reader. There will also be found a table of contents at the head of each chapter or separate article. Sections discussed out of context may be located in a cross-reference table following these individual tables of contents.

The other two series of the Council's constitutional convention publications will be issued shortly. The first of these will be a number of research papers discussing basic questions of constitutional import. Their purpose is to sum up for consideration of delegates to the convention the various views, attitudes, and possibilities regarding what has been, or could be done for the solution of particular major issues.

In contrast to this two-volume document, and to the research papers the Re-

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search Council will also publish a series of “position papers” setting forth, in fact and argument, the findings of the Research Council regarding several constitutional issues.